

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN
W.P.No.17531 of 2012

M.Deepa

... Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai 600 003.

2. The Secretary to Government
Municipal Administration,
Water Supply Department,
Fort St.George,
Chennai 600 009.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records and quash the impugned order Po.Thu.Na.Ka.No.E.9/52323/2007 dated 25.09.2008 issued by the first respondent and consequently direct the respondent to appoint the petitioner on compassionate ground basis.

For Petitioner : M/s.N.Beulah John Selvaraj

For Respondents : Mr.J.Pothiraj,
Special Govt.Pleader for R2.
Mr.Kesavan for R1

ORDER

The prayer in the writ petition is for a Writ of Certiorarified Mandamus to call for the records and quash the impugned order Po.Thu.Na.Ka.No.E.9/52323/2007 dated 25.09.2008 issued by the first respondent and consequently direct the respondent to appoint the petitioner on compassionate ground basis.

2. The petitioner's father was employed as a Sweeper under the first respondent Corporation and he died on 27.01.1997 while in service. The petitioner's father left behind his wife, four

daughters and one son as his legal heirs. Immediately after the death of the petitioner's father her mother gave an application for consideration of appointment on compassionate ground. This was not considered in view of the ban imposed by the Government on recruitment in Government services. Finally it was considered after lifting the ban in the year 2006 and an order was issued rejecting her claim stating by then, she was 49 years old. Thereafter, it appears on 14.03.2006 one of the daughters namely the petitioner herein had applied for compassionate appointment. However, the same came to be rejected vide proceedings of the first respondent dated 25.09.2009 on the ground that originally her mother had applied for compassionate appointment and the same was rejected stating only one member of a family can apply for appointment on compassionate grounds and there cannot be consideration of compassionate appointment for the second time for the same family. The said impugned order is put to challenge in the present writ petition.

3. The learned counsel for the petitioner submitted that originally the application was made within the stipulated time as per the scheme for compassionate appointment. However, the same was kept pending in view of the ban of recruitment which was lifted in the year 2006. Originally when the mother of the petitioner submitted the application, it was rejected in the year 2006. Subsequently, the daughter namely the petitioner herein had applied for consideration of compassionate appointment on 14.03.2003, however the same was rejected on the ground that originally her mother's application was rejected and therefore the same petition filed by the daughter (petitioner herein) cannot be considered for the second time in the same family.

4. Upon notice, Mr.J.Pothiraj, learned Special Government Pleader entered appearance and filed counter affidavit on behalf of the second respondent. The learned Special Government Pleader submitted that the scheme of compassionate appointment envisaged providing of immediate employment assistance to the family of the deceased and in this case admittedly, the employee had expired as early as 27.01.1997 and it is more than 20 years. Therefore, question of considering any compassionate appointment to the family members of the deceased is contrary to scheme of compassionate appointment and therefore requested the Court to reject the prayer in the writ petition.

5. Heard the learned counsel for the petitioner, the learned Special Government Pleader for the second respondent and the learned counsel for the first respondent.

6. According to the contentions raised and the orders passed by the first respondent, it appears that there was no

consideration of the claim made by the petitioner or by her mother on merits. Both her mother's petition as well as present petitioner's petition for compassionate appointment have been dismissed only on the technical ground that the petitioner's mother had become 49 years old and the petitioner's petition cannot be considered for the second time in the same family. In view of the rejection of petitioner's mother request in the year 2006, this Court is of the considered view that the first respondent has not considered the claim of the petitioner on merits at all, particularly in view of the admitted fact that originally the application for compassionate appointment was made within three years from the date of the deceased employee and the previous authority ought to have considered the claim of the petitioner on merits with reference to the proceedings of the scheme for compassionate appointment and cannot reject the same on certain technical grounds.

7. In view of the above, this Court directs the respondents to consider the claim of the petitioner for compassionate appointment on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

8. It is also open to the petitioner to submit a fresh application in this regard to the competent authority within a period of two weeks from the date of receipt of a copy of this order and the competent authority is directed to dispose of the representation within a period of eight weeks from the date of receipt of a copy of this order thereafter. This Court hopes that the competent authority shall appreciate the circumstances of the family in which it is placed as of today with reference to the provisions of the scheme providing for compassionate appointment vis-a-vis the claim for compassionate appointment of the petitioner and consider the claim sympathetically. With the above directions this writ petition is disposed of. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar

dpq

To

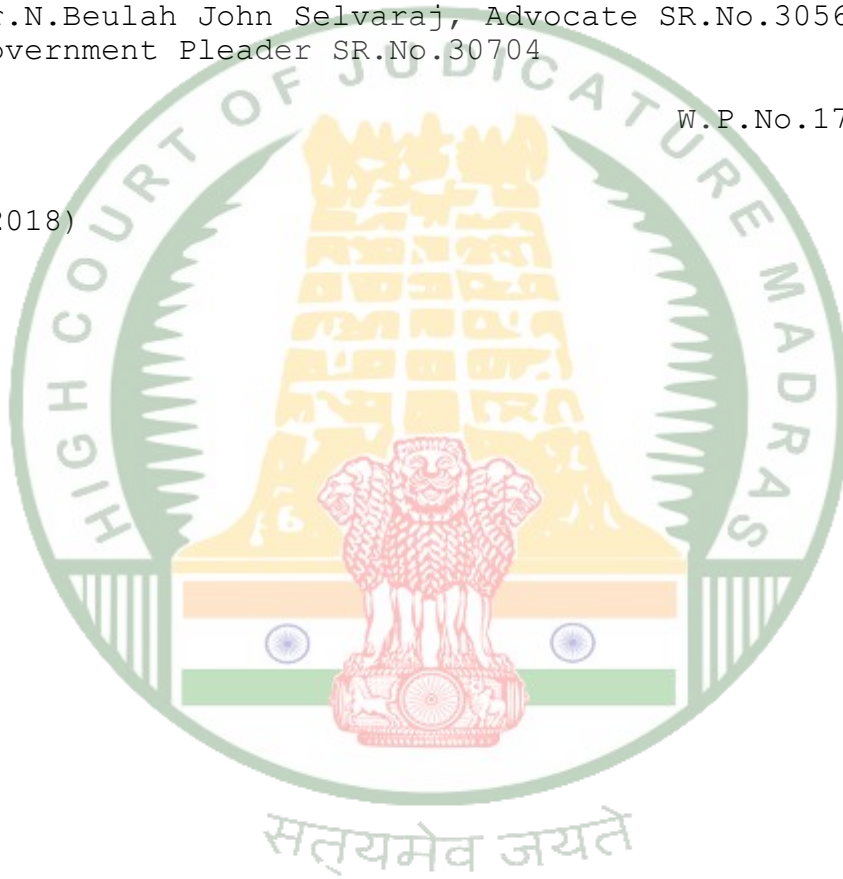
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+1cc to Mr.N.Beulah John Selvaraj, Advocate SR.No.30569

+1cc to Government Pleader SR.No.30704

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SG(CO)
GN(11/05/2018)



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