

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.18606 of 2012

Malarvizhi

... Petitioner

Vs

1.The Commissioner,  
Corporation of Chennai,  
Ripon Building,  
Chennai-600 003.

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

3.The Zonal Officer,  
Zone IV,  
Corporation of Chennai,  
Pulianthope,  
Chennai-600 012.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records and quash the order in Ma.Aa.3.Na.No.P3/168/2011 dated 22.11.2011 issued by the 1<sup>st</sup> respondent and consequently direct the 1<sup>st</sup> respondent to appoint the petitioner on compassionate ground basis.

सत्यमेव जयते

For Petitioner : Mr.N.John Selvaraj

For Respondents : Mr.C.Ravichandran,  
Standing Counsel for Chennai Corporation  
for R1 & R3

M/s.Rose Kamalam  
Govt. Advocate for R2

O R D E R

Heard Mr.N.John Selvaraj, learned counsel for the petitioner  
and Mr.C.Ravichandran, learned Standing Counsel appearing for

the respondents 1 & 3 and M/s.Rose Kamalam, the learned Government Advocate for 2<sup>nd</sup> Respondent.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records and quash the order in Ma.Aa.3.Na.No.P3/168/2011 dated 22.11.2011 issued by the 1<sup>st</sup> respondent and consequently direct th32 1<sup>st</sup> respondent to appoint the petitioner on compassionate ground basis."

3. The case of the petitioner is as follows:-

The petitioner's mother was employed as Sweeper in the respondent Board. While in service, she died on 17.04.1999. Prior to that, her father died on 24.01.1992. The petitioner was minor at the time of death of her mother as she was born only on 12.07.1985. Since she was minor at the time relevant time, she could not apply seeking for compassionate appointment for herself. Besides there was a recruitment ban between the period 2000 and 2006. After the ban was lifted by G.O.Ms.No.61, dated 19.07.2006, an application was made by the petitioner for compassionate appointment, however the same was not considered.

4. In the above said circumstances, the petitioner had approached this Court in W.P.No.11975 of 2010. The learned Judge of this Court vide order dated 08.09.2011, disposed of the said writ petition, directing the respondent to pass orders. The operative portion of the order passed passed by this Court as found in paragraph-8, is reproduced below:-

"8. Considering all these factors, this Court is constrained to direct the 1<sup>st</sup> respondent to consider the petitioner's application seeking for the relief of compassionate appointment in the light of G.O.Ms.No.61, dated 19.07.2006 lifting the ban imposed for the new recruitments and on the basis of the eligibility of the petitioner and after verifying whether the application is made within the prescribed time and pass orders on merits and in accordance with law. It is made clear that the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order."

5. In pursuance of the order passed by the learned Judge, the respondent passed the order, dated 22.11.2011, rejecting the claim of the petitioner on the ground that the application was made only after eight years and not within three years in terms of the regulations and therefore, she was not eligible for

consideration of the compassionate appointment. The said order is put to challenge in the present writ petition.

6.The learned counsel for the petitioner would submit that in view of the ban of recruitment on compassionate appointment during the relevant time, that is, between 2000 and 2006, the application could not be made and after the ban was lifted, the petitioner immediately made the application and therefore, there was no delay. At this, the learned counsel for the respondent Corporation would submit that the ban was only for recruitment and not making for compassionate appointment. In any event, the learned counsel for the respondent Corporation would submit that the petitioner having suffered the order passed by the respondent pursuant to the order of this Court in the earlier writ petition, cannot now approach this Court by way of another writ petition.

7.This Court finds merit in the contention put forth by the learned counsel for the respondent Corporation that the petitioner having suffered the order passed by this Court in the earlier writ proceedings and the impugned order was ordered only in pursuance of the direction by this Court in the aforesaid writ petition, it is not open to the petitioner to seek the relief once again and request for adjudication of the issue. The petitioner having made the application for compassionate application belatedly after stipulated time, cannot have any further cause of action for approaching this Court once again for the same relief.

8. In the above circumstances, this Court does not find any merits in the present writ petition and therefore, the same is dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,  
Corporation of Chennai,  
Ripon Building,  
Chennai-600 003.

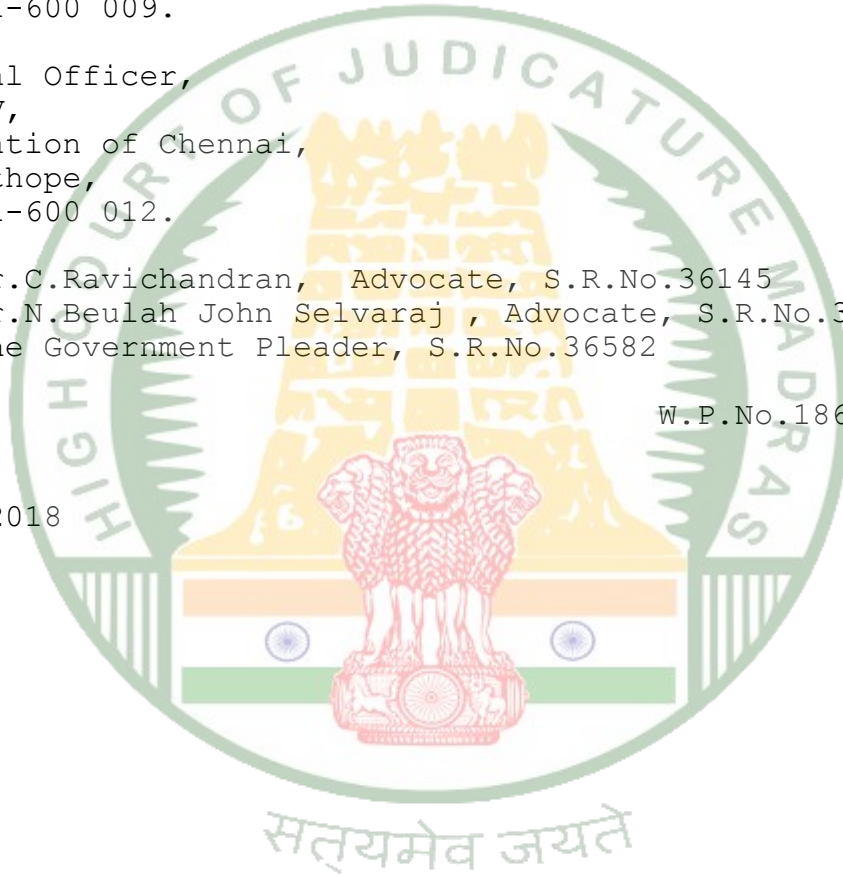
2.The Secretary to Government,  
Municipal Administration and Water  
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Fort St. George,  
Chennai-600 009.

3.The Zonal Officer,  
Zone IV,  
Corporation of Chennai,  
Pulianthope,  
Chennai-600 012.

+1cc to Dr.C.Ravichandran, Advocate, S.R.No.36145  
+1cc to Mr.N.Beulah John Selvaraj , Advocate, S.R.No.36773  
+1cc to the Government Pleader, S.R.No.36582

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nr 06/07/2018



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