

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.19843 of 2012

S.Devi

.. Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.
 2. The Secretary to Government,
Municipal Administration,
Water Supply Department,
Fort St. George,
Chennai-600 009.
 3. The Zonal Officer,
Zone - VI,
Corporation of Chennai,
Ayanavaram, Chennai-600 063.
- ... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records and quash the order Ma.A.Ma.Na.Ka.No.A4/1230/2006 dated 17.07.2012 issued by the third respondent and consequently direct the 1st respondent to appoint the petitioner on compassionate ground basis.

For Petitioner .. Mr.N.Beulah John Selvaraj for
M/s.N.John Selvaraj

For Respondents... Mr.J.Ashok for
Karthikaa Ashok for R1 & R3
R2-No appearance

ORDER

The petitioner has approached this Court, seeking the following relief:-

"Writ of Certiorarified Mandamus calling for the records and quash the order Ma.A.Ma.Na.Ka.No.A4/1230/2006 dated 17.07.2012 issued by the third respondent and consequently direct the 1st respondent to appoint the petitioner on compassionate ground basis."

2. The petitioner's mother was employed as Sweeper in the Corporation of Chennai and she died on 27.03.2000 while he was in service. The petitioner herein is only the legal heir of her mother. According to the petitioner, her father deserted her mother when she was three years old and he re-married with another lady.

3. Since the only breadwinner of the family viz., the petitioner's mother had died, the petitioner gave an application seeking compassionate appointment on 08.02.2006 and the receipt of the application was also acknowledged by the Department. In the mean while, the petitioner also filed the Original Petition in O.P.No.242 of 2005 for Succession Certificate and it was also ordered in her favour. According to the petitioner, she has submitted all the required documents for consideration of appointment on compassionate ground. The petitioner at the time when the mother died, she was only 15 years old and she made a representation during 2006 after attaining the age of majority. According to the petitioner, there was a ban of recruitment by the Government during the period from 2001 to 2006 and once the ban was lifted in 2006, she made a representation seeking compassionate appointment on 08.02.2006. Unfortunately, the first respondent in response to the application, passed the impugned order dated 17.07.2012, rejecting the application only on the ground that the petitioner seeking compassionate appointment was not made within three years from the date of death of her mother. The said impugned order is put to challenge in the present writ petition.

4. The case of the petitioner is that at the time of her mother's death, she was admittedly a minor and therefore, there was no occasion for making an application seeking appointment on compassionate ground as she was not eligible for consideration. However, when she attained majority, admittedly there was a ban of recruitment in force and the same was lifted only in 2006. Thereafter, the petitioner seems to have submitted her representation on 08.02.2006. However, the same has been turned down mechanically by the first respondent stating that the application was submitted after the limitation period. The said mechanical disposal of the application does not advance cause of

the scheme providing for compassionate appointment. In the matters of compassionate appointments, it is always incumbent upon the authorities to see whether the person who seeks compassionate appointment is really deserve to be considered in the matter of providing employment assistance to the family, which suffered from indigent circumstances due to the death of the breadwinner of the family. Therefore, the authorities cannot mechanically reject the compassionate ground application only on the ground of three year limitation period. In this case, the petitioner could not submit her application within three years as at the time of her mother death, she had been only 15 years old. After she attained majority, there was a ban in force and subsequently the ban was lifted in 2006. Thereafter, she submitted the application for compassionate appointment. Therefore, this Court does not find any justification for the authority to reject the application on the ground of delay.

5. For the above said reasons, this Court finds that the impugned order passed by the first respondent is liable to be interefered with and therefore, the same is set aside. The respondents are directed to consider the representation of the petitioner dated 08.02.2006 for seeking compassionate appointment on merits with reference to her financial status and other indigent circumstances in which the petitioner is placed and to dispose of the same, within a period of eight weeks from the date of receipt of a copy of this order.

6. It is also open to the petitioner to submit a fresh application in this regard to the competent authority within a period of one week from the date of receipt of a copy of this order and thereafter, the same shall be disposed of by the competent authority within a period of eight weeks thereafter.

7. With the above direction, this Writ Petition is allowed. No costs.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

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

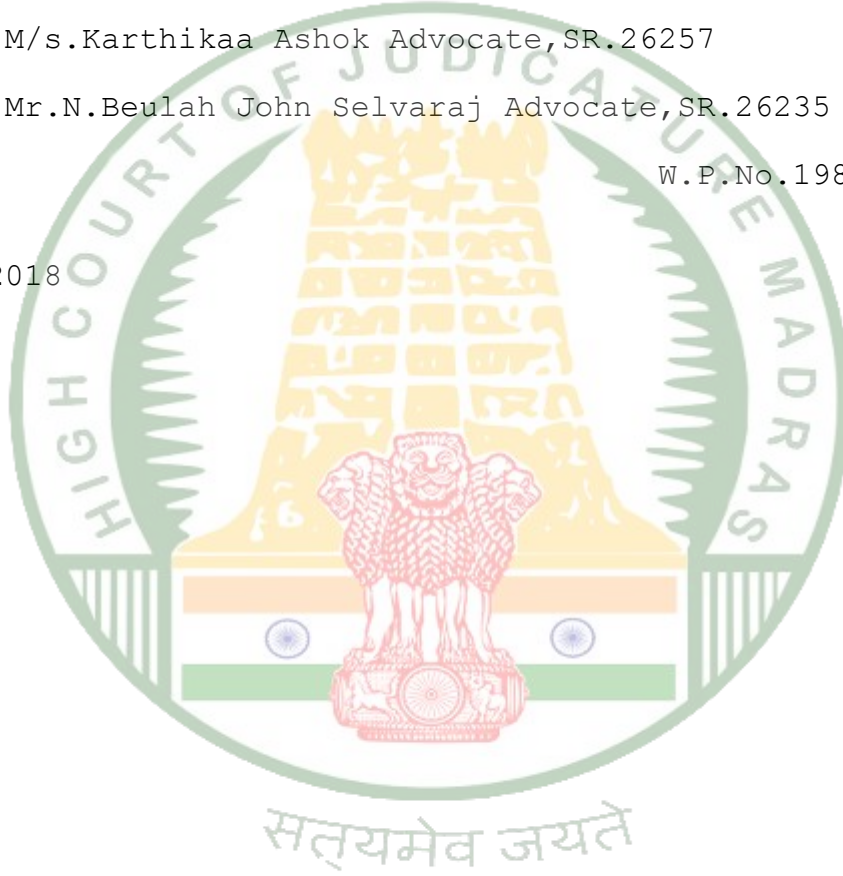
3. The Zonal Officer,
Zone - VI,
Corporation of Chennai,
Ayanavaram,
Chennai-600 063.

+ 1 cc to M/s.Karthikaa Ashok Advocate, SR.26257

+ 1 cc to Mr.N.Beulah John Selvaraj Advocate, SR.26235

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