



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P. (MD) No.18271 of 2018

Pechiyammal

... Petitioner

vs.

1.The Commissioner
Trichiruppalli City Corporation
Trichiruppalli

2.The Assistant Commissioner
Ariyamangalam Division
Trichiruppalli City Corporation
Trichiruppalli

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the first respondent proceedings Na.Ka.253/2018/C1 (centre) dated 20.01.2018 and quash the same as illegal and direct the first respondent to give employment to the petitioner on compassionate ground for the death her mother.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.N.S.Karthikeyan

O R D E R

The petitioner's mother, namely, Nagammal was working as Sweeper in the respondent - Corporation and while she was in service, she died on 08.12.2000. On the death of her mother, on 10.11.2011, the petitioner submitted an application to the respondents seeking to disburse all the monitory benefits payable to the deceased Nagammal in her favour as she being the sole legal heir of her deceased mother. When her application was pending consideration, it was found in the service register that the name of the sister of the petitioner's mother was shown as the legal heir.

2. In the said circumstances, vide proceedings dated 23.02.2005, the second respondent directed the petitioner and her mother's sister to obtain an order from the competent Court of law as to who is the actual legal heir of the deceased Nagammal.

<https://hcservices.ecourts.gov.in/hcservices/>

3. As per the above direction, the sister of the petitioner's



mother filed a suit in O.S.No.1452 of 2008, before the competent Court, and eventually the said suit was referred to Lok Adalat on 08.07.2017. In the proceedings before the Lok Adalat, a compromise decree was passed holding that the petitioner is entitled to compassionate appointment in the respondent - Corporation. In the said circumstances, the petitioner approached the first respondent with an application dated 09.01.2018 and produced a copy of the compromise decree dated 08.07.2017 passed by the Lok Adalat. In response to the same, the first respondent vide proceedings, dated 20.01.2018, rejected the petitioner's claim for compassionate appointment on the ground that the application has not been submitted within three years from the date of death of her mother. Challenging the said proceedings, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that it was the respondents, who originally advised the petitioner to approach the competent Court of law to sort out the issue of legal heirship between the petitioner and her mother's sister and the suit proceedings ended in a compromise decree passed by the Lok Adalat only during 2017. Thereafter, when the petitioner approached the respondents, her claim was rejected on the ground of delay alone without considering the other factors as per the scheme of compassionate appointment.

5. At this juncture, Mr.N.S.Karthikeyan, learned counsel, who takes notice for the respondent - Corporation, would submit that after 18 years from the date of death of her mother, the petitioner made a claim for compassionate appointment and therefore, the Authority concerned has rightly rejected the petitioner's claim on the ground of delay.

6. Considering the circumstance of the case that the petitioner's mother was employed as a Last Grade Servant and also considering the fact that the suit proceedings, which were pending before the competent Court of law, had consumed nearly ten years and finally ended in a compromise decree dated 08.07.2017 passed by the Lok Adalat, the delay in making the application by the petitioner cannot be held against her. It appears that immediately after the compromise decree passed by the Lok Adalat, the petitioner had approached the respondents and therefore, the respondents ought to have considered the petitioner's claim in the light of her financial status and background. Instead, the respondents have approached the petitioner's claim with a narrow view and rejected her claim only on the basis of delay in making such an application.

7. This Court is of the considered view that this is a fit case, where the three years period of limitation need not be applied in view of the peculiar circumstances as explained above. Therefore, the impugned order in Na.Ka.253/2018/C1(centre), dated 20.01.2018, passed by the first respondent, is set aside. The respondents are directed to reconsider the petitioner's claim and if the petitioner satisfies all other norms in terms of the scheme for



compassionate appointment, the respondents are directed to grant compassionate appointment to her in any suitable post favorably.

8. This Court hopes that the respondents will take a sympathetic view in this matter in view of the fact that the petitioner's mother died during 2000 and she was struggling all these years. The above directions shall be complied with by the respondents within a period of four weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition stands allowed.
No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

+1cc to Mr.S.Muthu krishnan, Advocate, SR No.79872

+1cc to Mr.N.S.Karthikeyan, Advocate, SR No.79628

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DS (NM) /SKN/SAR 1/25.09.18/3P/3C