



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.1423 of 2018
and
WMP (MD) No.1481 of 2018

C.Aishwarya

... Petitioner

Vs.

The Educational Officer,
Educational Department,
Metropolitan Chennai Corporation,
Ribbon House, Chennai.

... Respondent

Prayer: This writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the respondent in Ka.Thu.Na.Ka.No.B3/6840/2017 dated 28.06.2017 and quash the same and consequently direct the respondent to provide the petitioner employment on compassionate ground.

For petitioner	: Mr.H.Arumugam
For Respondents	: Mr.K.Saravanan, Government Advocate

ORDER

The petitioner's mother was working as a Secondary Grade Teacher in Chennai Corporation Higher Secondary School at Patel Nagar. She passed away in the year 2003. Employment was given on compassionate ground to her father as Record Clerk in the office of the Chennai City Municipal Corporation. The petitioner's father also passed away in the year 2009. When the petitioner's father passed away, the petitioner was aged 13 years and her younger brother was aged about 10 years. The petitioner and her brother are orphans. Therefore, the question of submitting an application for compassionate appointment within three years from the date of the death of the deceased employee of the family would not arise in this case. However, the petitioner's request was rejected precisely on this ground.

<https://hcservices.ecourts.gov.in/hcservices/> 2. This Court is of the view that the respondent did not take note of the peculiar circumstances in which the petitioner and her younger brother placed. The impugned order really can be sustained



if there was atleast one person who had attained majority in the family of the deceased. The writ petitioner could not have submitted such an application.

3. In similar circumstances, the Hon'ble Division Bench of this Court by order dated 16.12.2015 in WA(MD)No.1400 of 2011 held that three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Yet another decision that is in favour of the writ petitioner is reported in **2017 (1) CWC 486 (K.Sankar vs. The Commissioner Corporation of Chennai)**.

4. Following the aforesaid decisions, this Court quashes the order impugned in the writ petition. The respondent is directed to consider the case of the writ petitioner on merits. It is made clear that while re-considering the case of the writ petitioner, the question of limitation shall not be applied. The respondent shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

5. This writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Educational Officer,
Educational Department,
Metropolitan Chennai Corporation,
Ribbon House, Chennai.

+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 45891
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 46214

SKM

TE/SV-MMS/SAR-3 : 19/02/2018 : 2P/4C

W.P. (MD)No.1423 of 2018 and
WMP (MD)No.1481 of 2018
01.02.2018