

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.1110 of 2012

M.Baskar

... Petitioner

Vs.

The Commissioner of Police,
Greater Chennai,
Egmore,
Chennai 600 008.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order in Na.Ka.No.Ka.A.Pa.Ne.1/299/89369/2009 dated 05.10.2009 passed by the respondent and quash the same and to relax the age limit and consider the petitioner for employment in the respondent department on compassionate grounds.

For Petitioner : Ms.S.Rajeni Ramadass

For Respondent : Mr.R.S.Selvam
(Government Advocate)

O R D E R

The present Writ Petition is filed for an issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order in Na.Ka.No.Ka.A.Pa.Ne.1/299/89369/2009 dated 05.10.2009 passed by the respondent and quash the same and to relax the age limit and consider the petitioner for employment in the respondent department on compassionate grounds.

2.The petitioner is seeking appointment on compassionate ground after quashing the order dated 05.10.2009. According to the petitioner, his mother was working as Police Ayah (P/A.No.118) in the office of the Assistant Commissioner of Police, Armed Reserve-II, Chennai - 2 and on 23.04.2004 while she was going to her work, met with an accident and suffered

head injury. From that day onwards, she was taking treatment for various periods in Stanley Government Hospital, Kilpauk Medical College Hospital and Government General Hospital, Chennai. Finally on 31.08.2006, the Government General Hospital, Chennai has sent a communication to the Chairman, Medical Board, recommending the medical invalidation of the mother of the petitioner. Subsequently, the Medical Board has issued a certificate of retirement. Based on the said certificate, the respondent by the order dated 17.06.2007, medically invalidated the petitioner's mother from service with effect from 05.03.2007. The petitioner's mother sent a representation dated 24.07.2006 to the respondent to give employment to the petitioner on compassionate ground. Subsequently, the petitioner's mother died on 15.08.2008. The petitioner submitted no objection from other members of his family along with all the educational certificates and certificate issued by the Tahsildar. The respondent sent a communication that they are seeking clarification from the Director General of Police as to whether relaxation of age could be granted to give appointment to the petitioner as the petitioner has crossed 35 years of age. The respondent by the impugned order dated 05.10.2009, rejected the request of the petitioner for appointment on compassionate ground stating that the mother of the petitioner was aged 56 years when she retired on medical invalidation. Challenging the said order, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner's mother became medically invalidated on 23.04.2004 itself when she met with an accident and she could not do any work from that day onwards. The Government General Hospital, Chennai by communication dated 31.08.2006 informed the Medical Board that the petitioner's mother became medically invalidated, but respondent passed the order only on 17.06.2007 with effect from 05.03.2007. The petitioner cannot be penalized for the delay on the part of the respondent and prayed for allowing the Writ Petition.

4.On the other hand, the respondent in the counter affidavit has stated that as per G.O.Ms.No.168, Labour and Employment Department dated 19.10.2000, only when an employee was retired under medical invalidation ground within the age of 53 years, the legal heirs can be considered for compassionate ground. The petitioner's mother was aged 56 years when she was medically invalidated and the petitioner has crossed 41 years and therefore, he cannot be appointed on compassionate ground and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent.

6. It is seen from the materials on record that the legal heirs of the employee who was medically invalidated can be appointed on compassionate ground only if the said employee has retired within the age of 53 years. The said restriction is imposed by G.O.Ms.No.168, Labour and Employment Department dated 19.10.2000. It is an admitted fact that the Government General Hospital by communication dated 31.08.2006 informed the Chairman, Medical Board recommending medical invalidation of the petitioner's mother. The respondent passed the order on 17.06.2007, retiring the petitioner's mother on medical invalidation ground. On that date, the petitioner's mother was 56 years. The contention of the learned counsel for the petitioner that there was unreasonable delay in retiring the petitioner's mother in medical invalidation ground is without merits. The petitioner's mother met with an accident on 23.04.2004, but only on 31.08.2006, the Government General Hospital recommended her medical invalidation. Based on the said communication, the respondent passed order on 17.06.2007 and medically invalidated the petitioner's mother with effect from 05.03.2007. Even on 31.08.2006, the petitioner's mother has crossed the age of 53 years. The petitioner has not challenged G.O.Ms.No.168, Labour and Employment Department dated 19.10.2000 mentioned in the impugned order for rejecting the claim of the petitioner for appointment on compassionate ground. Further, the petitioner crossed the age of 35 years when the petitioner's mother met with an accident and subsequently, the petitioner sought appointment on compassionate ground. The reason given by the respondent for rejecting the request of the petitioner for appointment on compassionate ground is valid and legal.

7. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS V)

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Sub Assistant Registrar

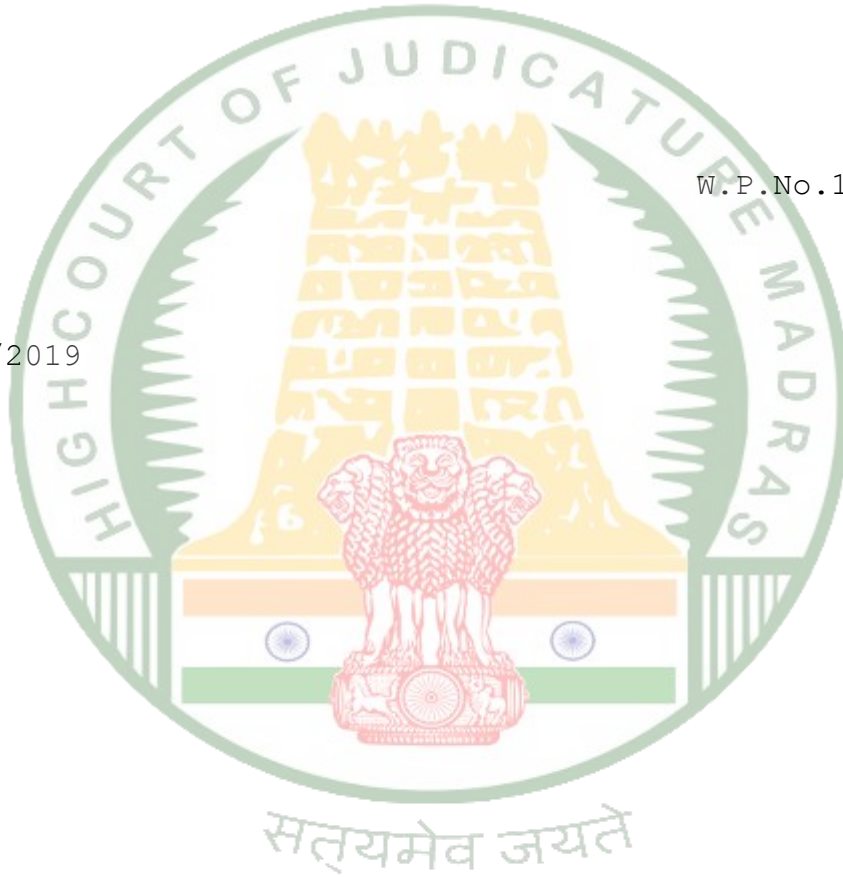
To

The Commissioner of Police,
Greater Chennai,
Egmore,
Chennai 600 008.

+lcc to the Government Pleader Sr.50621
+lcc to Ms.S.Rajeni Ramadass, Advocate Sr.50370

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