

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

Writ Petition No.22326 of 2019
and
W.M.P.No.21637 of 2019

R.Priyadharshini
D/o.Late B.Ramesh

...Petitioner

Vs

1. The Registrar General,
High Court, Madras.

2. The Accountant General (A&E),
Teynampet, Chennai - 600 018.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records from the first respondent relating to the order bearing Roc.No.4663/2017-ESTT-I dated 15.10.2018 and quash the same and direct the first respondent to give suitable employment to the petitioner on compassionate ground.

For Petitioner : Mr.S.Ayyathurai

For Respondents : Mr.K.Elango [R1]
Mr.V.Vijay Shankar [R2]

O R D E R

[Order was delivered by R.SUBBIAH, J]

Petitioner has filed the present Writ Petition seeking quash of the order of first respondent bearing Roc.No.4663/2017-ESTT-I dated 15.10.2018 and consequently, direct first respondent to give suitable employment to the petitioner on compassionate ground.

2. Heard learned counsel for petitioner and learned counsel for respondents. Perused the materials on record.

3. It is the case of the petitioner that she was born on 17.12.1998 and her father B.Ramesh worked as a Record Clerk in this Court and he died on 02.12.2012 while in service. Her mother Tmt.Hema Thaiyalnayaki predeceased her father on 05.03.2000 when she was 2 years and thus, she became orphaned at the age of 14. After the demise of her father, her grandfather Balakrishnan, who is aged 82 years, was appointed as her guardian. Petitioner obtained 1032 marks out of 1200 in plus two and joined B.Com degree course at Ethiraj College and completed first year. However, she could not continue her studies for want of money. Petitioner submitted an application on 22.06.2016 seeking employment on compassionate ground in any post and has also produced all the documents and certificates sought for by the Registry of this Court. Since no action was taken on her representation, petitioner submitted another application. As there was no response for the said application, petitioner submitted other two applications on 02.04.2018 and 28.04.2018 to the Chief Justice of this Court. Thereafter, the petitioner was served with the impugned order dated 15.10.2018, which reads thus:

'Ms.R.Priyadharshini, D/o.Late B.Ramesh, formerly Record Clerk, High Court, Madras (died in harness on 02.12.2012) has requested in her letter dated 22.06.2016 for grant of appointment on compassionate ground after the demise of her father.

The employee died on 02.12.2012 and an application for grant of appointment on Compassionate Ground, has to be made within a period of three years from the date of demise of her father i.e., on or before 01.12.2015.

The individual has submitted her application on 22.06.2016, that is nearly six months after the expiry of three years' period. On the date when she submitted her application, she was 17 years and six months old, as she was born on 17.12.1998. Therefore, on the date when she applied for appointment to a suitable post, she was a minor.

In the decision of the Hon'ble Division Bench in the case of The Inspector General of Prisons, & Ors., Vs. P.Marimuthu, [2016 (5) CTC 125], the Hon'ble Division Bench, after taking note of the various decisions of the Hon'ble Supreme Court pointed out that for entry into service in the State, the minimum age is 18 years and no minor can be appointed to any service. Thus, it was held that the applicant cannot make any application for appointment to any post in service and no post can be kept vacant, till the applicant attains majority.

In the light of the above legal position, her application is not feasible of consideration.'

Challenging the above order, the present Writ Petition has been filed.

4. When the matter came up earlier, this Court has directed the Registry to re-consider the case of the petitioner. However, the petitioner's case was rejected by order dated 12.09.2019. A copy of the order has also been produced before us. At this juncture, learned counsel for petitioner prays this Court to grant liberty to challenge the order dated 12.09.2019. Learned counsel also prays to issue a direction with regard to release of family pension.

5. Second respondent has filed a counter affidavit stating that as per the provisions of Rule 49 of the Tamil Nadu Pension Rules and the Government Orders issued thereunder, family pension is payable to the daughter of the deceased Government servant till she attains the age of 25 years or gets employed or gets married, whichever is earlier. Therefore, Income Certificate issued by the Revenue Authorities was called for from the petitioner for authorizing the admissible family pension. On receipt of the Income Certificate, if the petitioner is found to be eligible for family pension, the same would be authorised within two weeks from the date of receipt of the Income Certificate.

6. Learned counsel for petitioner submits that he would produce the Income Certificate within a period of one week from today. Learned counsel for second respondent replies that on receipt of the Income Certificate, they would release the family pension within two weeks thereafter.

Recording the aforesaid submissions, the Writ Petition is disposed of. However, liberty is granted to the petitioner to challenge the order dated 12.09.2019. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Registrar General,
High Court, Madras.
2. The Accountant General (A&E),
Teynampet, Chennai - 600 018.

+1 cc to M/s.S.Ayyathurai, Advocate, S.R.No.80377

+1 cc to M/s.V.Vijay Shankar, Advocate, S.R.No.80476

Writ Petition No.22326 of 2019

RP(CO)
SSM(25/09/2019).



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