

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

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

W.P.No.28945 of 2019

Priyadharshini

.. Petitioner  
Vs.

The Registrar General,  
High Court,  
Madras.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the respondent relating to the order bearing Roc.No.4663/2017-ESTT-1, dated 25.09.2019, confirming the order bearing No.4663/2017-ESTT-1, dated 15.10.2018, rejecting the request of the petitioner for employment on compassionate ground and quash the same and direct the respondent to give suitable employment to the petitioner commensurate with her educational qualification on compassionate ground.

For petitioner : Mr.S.Ayyathurai  
For respondent : Mr.K.Elango

ORDER

(The Order of the Court was made by R.Subbiah, J)

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the respondent relating to the order bearing Roc.No.4663/2017-ESTT-1, dated 25.09.2019, confirming the order bearing No.4663/2017-ESTT-1, dated 15.10.2018, rejecting the request of the petitioner for employment on compassionate grounds and quash the same and direct the respondent to give suitable employment to the petitioner commensurate with her educational qualification on compassionate grounds.

2. Brief facts of the case are as follows:

(a) The petitioner's father B.Ramesh was working as Record Clerk in the High Court. He died on 02.12.2012 while in service.

Her mother Tmt.Hema Thaiyalnayaki pre-deceased her father on 05.03.2000 when the petitioner was two years old. The petitioner became orphan at the age of 14 years. She was born on 17.12.1998. Her grandfather Thiru.Balakrishnan, who is aged about 82 years, was appointed as her guardian by this Court. The petitioner passed +2 examinations in 2016, scoring 1032 marks out of 1200 (86%). She joined B.Com. degree course in the Ethiraj College and after completion of first year course, she could not continue her second year course for want of funds, as her grandfather could not raise a sum of Rs.32,000/- to pay for her second year course fees and thus, she discontinued her studies. Thereafter, she joined B.Com., in the correspondence course and now she is studying the second year course.

(b) In the meantime, the petitioner submitted an application on 22.06.2016 for employment on compassionate grounds in any post commensurate with the educational qualification. The Assistant Registrar (Admn.I), High Court, Madras, directed the petitioner to furnish the following original documents:

- (i) Certificate regarding the income of the petitioner's family issued by the Tahsildar concerned;
- (ii) Certificate disclosing the indigent circumstances of the petitioner's family issued by the Tahsildar concerned;
- (iii) Death Certificate of the petitioner's father;
- (iv) Legal Heirship Certificate issued by the Tahsildar concerned, and
- (v) Certificate of the Tahsildar concerned about the petitioner's marital status and employment position.

(c) Accordingly, the petitioner produced all the documents, i.e. the Certificates issued by the Tahsildar, Ayanavaram Taluk, Chennai to show that:

- (i) Her father Thiru.B.Ramesh, who resided at Door No.9/49, Periyar Salai, Ayanavaram and worked as Record Clerk in the High Court of Madras, has expired during the course of employment on 02.12.2012;
- (ii) Her father Thiru.B.Ramesh had no movable or immovable properties;
- (iii) No one is working in the family of the deceased Thiru.B.Ramesh in Central and State Governments;
- (iv) Her mother Hema Thaiyalnayaki, w/o (late) Thiru.B.Ramesh also expired on 05.03.2000;
- (v) The annual income of the said family is only Rs.72,000/-. The terminal benefits of Rs.1,45,000/- due to the deceased was deposited in the permanent deposit account;
- (vi) Family is in poor living condition, and
- (vii) The nominee of the deceased Thiru.B.Ramesh is Ms.Priyadharshini.

(d) Since the petitioner did not receive any favourable reply from the Assistant Registrar (Admn-I) / Sub-Asst.

Registrar (Estt.), High Court, Madras, she once again submitted an application seeking employment on compassionate grounds by enclosing all her earlier applications/School Certificates/Death Certificate/Legal Heirship Certificate etc., to the respondent. As the petitioner did not receive any order even after submitting the said application and after the lapse of 7 months, she once again submitted two applications on 02.04.2018 and 28.04.2018 to the Honourable Chief Justice of this Court. Thereafter, the petitioner received the impugned order dated 15.10.2018 passed by the respondent-Registrar General, stating that her father died on 02.12.2012 and the application for grant of appointment on compassionate grounds, had 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; that the petitioner submitted the application only on 22.06.2016, i.e. nearly six months after the expiry of the three year period; that she was only 17 years and six months old when she submitted the application for employment, and therefore, she was a minor; that for entry into service in the State, the minimum age is 18 years and no minor can be appointed to any service; that no post can be kept vacant till the applicant attains majority and that therefore, it was not feasible for consideration. Aggrieved by the said order of the respondent, the petitioner sent a representation on 06.03.2019 to the Honourable Chief Justice, but no reply was received.

(e) Hence, challenging the said order dated 15.10.2018 of the respondent, the petitioner filed a Writ Petition in W.P.No.22326 of 2019 and sought for a direction to the respondent to give suitable employment to the petitioner on compassionate grounds. During the hearing of the said W.P.No.22326 of 2019, the learned counsel for the respondent produced an order dated 12.09.2019 stating that the representation of the petitioner, dated 06.03.2019 to the Honourable Chief Justice, had been rejected and that formal order would be issued. Hence, this Court, while disposing of the said Writ Petition on 18.09.2019, granted liberty to the petitioner to challenge the said order dated 12.09.2019, so that an order may be formally issued and directing settlement of all legal dues to her. Accordingly, the respondent issued formal order dated 25.09.2019, rejecting the petitioner's request made in the representation(s) of the petitioner and thereby confirming the earlier order dated 15.10.2018. Hence, challenging the said order dated 25.09.2019, the present Writ Petition is filed, for the relief stated supra.

3. When the Writ Petition is taken up for consideration, the learned counsel for the petitioner made submissions adverting to the averments made in the affidavit filed in support of the Writ Petition. He submitted that the petitioner's father worked as Record Clerk in the High Court and he died on 02.12.2012 while

in service. The petitioner's mother Tmt.Hema Thaiyalnayaki pre-deceased her father on 05.03.2000. At the time of the death of her mother, she was two years old and at the time of the death of her father, she was 14 years old. She was under the care and custody of her grandfather. She has no brother or sister. The learned counsel for the petitioner further submitted that the petitioner has no one to support her either on her father's side or mother's side. The petitioner had passed +2 examinations in 2016. On 22.06.2016, she made an application to the respondent on compassionate grounds, along with necessary documents. Her application was rejected on 15.10.2018 stating that the application for grant of compassionate appointment has to be made within 3 years from the date of demise of her father, i.e. on or before 01.12.2015, whereas, she had submitted the application only on 22.06.2016, i.e. nearly six months after the expiry of three-year period. It was further observed in that order that on the date when she submitted her application, she was 17 years and six months old, and therefore, on the date when she applied for appointment to a suitable post, she was a minor. Hence, it was observed that the petitioner cannot make an application for any appointment to any post in service and no post can be kept vacant till she attains majority.

4. The learned counsel for the petitioner further submitted that the petitioner thereafter submitted a representation, dated 06.03.2019 to the Honourable Chief Justice to re-consider her critical position and provide suitable employment on compassionate grounds. After submitting the said representation, she has also filed a Writ Petition in W.P.No.22326 of 2019, challenging the said order dated 15.10.2018, by which the earlier representation of the petitioner was rejected. When the said Writ Petition came up before this Court for hearing on 18.09.2019, it was represented on behalf of the respondent-Registrar General of this Court that the petitioner's representation was rejected by order dated 12.09.2019. A copy of the said order was also produced before the Court. Thereafter, the petitioner sought for permission to challenge the said order dated 12.09.2019 and accordingly, in the said Writ Petition, this Court granted liberty to the petitioner to challenge the said order dated 12.09.2019. Thereafter, the present Writ Petition has been filed.

5. The learned counsel for the petitioner further contended that since the petitioner was minor at the time of the death of her father, she was not in a position to make the application and prior to six months before she attained majority, she submitted the application. In fact, the Registry of this Court, on the Administrative Side, called for necessary documents. Ultimately, they have rejected the application of the petitioner on the ground that she had not submitted her application within three years from the date of demise of her father and moreover, at the time of submission of the application, she was only

minor. Assailing the said order of the respondent, dated 15.10.2018, the learned counsel for the petitioner submitted that while passing the order, the respondent had failed to consider the indigent circumstances of the petitioner. Anyway, that application was submitted within a reasonable time. Thus, the learned counsel for the petitioner sought to quash the impugned order dated 25.09.2019.

6. Countering the above submissions, the learned counsel appearing for the respondent, by filing counter affidavit, supported the impugned order passed by the respondent and prayed for dismissing the Writ Petition.

7. Heard both sides and perused the materials available on record.

8. We find from a perusal of the impugned order that the respondent has failed to consider the indigent circumstances of the petitioner. The application of the petitioner seeking appointment on compassionate grounds, was rejected mainly on the ground that she was minor and the application was not submitted within three years from the date of the death of her father. We find that she has submitted the application six months prior to her attaining majority. Therefore, within a reasonable time, she has submitted the application and after attaining majority, she has also made a representation, dated 06.03.2019.

9. In similar circumstances, this Court (Madurai Bench) in W.A.(MD).No.1400 of 2011 (S.Velraj Vs. The Superintendent Engineer, Tamil Nadu Electricity Board, Tirunelveli Electricity Distribution Circle, Tirunelveli), by order dated 16.12.2015 and in another judgment of this Court (Madurai Bench) reported in 2016 (5) CTC 125 (The Inspector General of Prisons Vs. P.Marimuthu), observed that the appointment on compassionate grounds had to be given considering the facts and circumstances of each case and therefore, the three-year limitation period cannot be applied as a straight-jacket formula and each and every case has to be approached differently based on the facts.

10. In the instant case, the factual aspects of the matter show that the petitioner has become orphan and her grandfather, under whom she is in the custody, is an age-old person and that the petitioner has also produced necessary documents to show that she has no sufficient funds to sustain herself.

11. Considering all the above aspects, we are of the opinion that this is a fit case to quash the impugned order. Accordingly, the impugned order is quashed. The Writ Petition is allowed as prayed for. The respondent is directed to give suitable employment to the petitioner commensurate with her educational qualification on compassionate grounds. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CS  
To

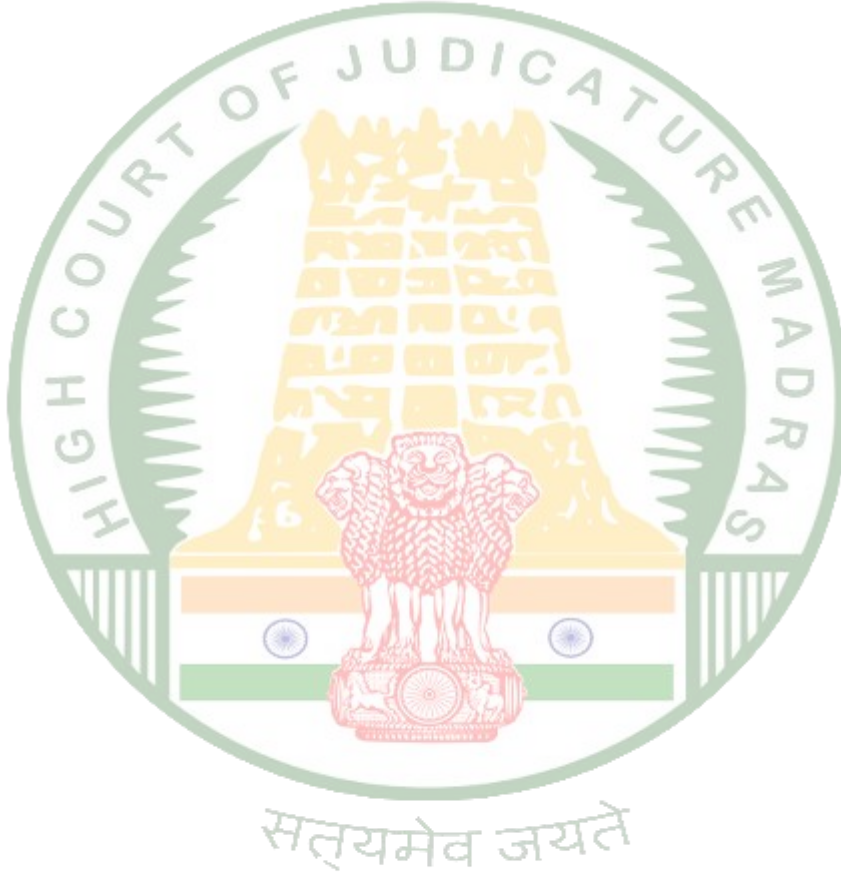
The Registrar General,  
High Court,  
Madras.

+1cc to Mr.S.Ayyathurai , Advocate SR.No. 97942

+1cc to Mr.K.Elango , Advocate SR.No. 99052

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A.SK(18/12/2019)



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