

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.19208 of 2017

N.Latha

...Petitioner

vs.

1.The District Collector
Kancheepuram District
Kancheepuram.

2.The Tahsildar
Cheyyur Taluk
Cheyyur, Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.No.6467/2010/A8 dated 15.12.2016 to quash the same and issue consequential direction to the respondents to give appointment to the petitioner's son namely N.Sivaram on compassionate grounds consequent to the death of his father Thiru.N.Narasimmalu (late) on 28.09.2010 while serving as Village Assistant at Kodur Village, Cheyyur Taluk, Kancheepuram District.

For Petitioner : Mr.P.Murali

For Respondents: Mr.D.Suriyanarayanan
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the order of the second respondent dated 15.12.2016.

2. Through the said order, the request of the petitioner for providing compassionate appointment to her son namely N.Sivaram, consequent on the death of her husband viz., S.Narasimmalu, was rejected only on the ground that the petitioner's son did not attain the age of 18 years at the time of making such request.

3. Heard both sides.

4. There is no dispute to the fact that the petitioner's husband viz., S.Narasimmalu was serving as a Village Assistant and died while in service. It is also not in dispute that the petitioner made an application for appointing her son N.Sivaram, on compassionate ground. The only objection raised by the second respondent is that the said N.Sivaram did not complete the age of 18 years at the time of making the application. However, it is seen from the impugned order itself that the petitioner's son was lacking only 7 months for completing the age of 18 years, at the time of making such application.

5. This Court has already considered similar issue in WP (MD) No.10386 of 2014 and passed an order therein on 27.06.2014 as follows:

"3. In this case, it is not disputed that the petitioner was the minor at the time of death of his father. It is also not the case of the respondents that any other family members has made an application seeking for compassionate appointment. The only reason stated in the impugned order is that the application was made after three years from the date of death of the deceased employee. It is already settled proposition of law that a minor is entitled to make an application for compassionate appointment on attaining the age of majority and such application cannot be rejected on the ground of delay and latches. One of such decisions was made in (2012)2 MLJ 211 (R.Sridevi vs. Secretary to Government), wherein the learned Judge has observed at paragraph 8 and 9 as follows:-

"8. Admittedly, the petitioner's father was employed with the 3rd respondent Department and died in harness on 7.1.1992. At that time, the petitioner was aged about 10 years, studying 6th standard. Thereafter, the petitioner's mother submitted an application to the 3rd respondent on 27.4.1992 seeking appointment for her second daughter, i.e., the petitioner on compassionate ground. In the meantime, the petitioner completed SSLC and on attaining the age of majority, submitted an application to the second respondent on 19.02.1999 seeking appointment on compassionate ground. From the impugned orders, it is seen that the claim of the petitioner was rejected on the ground that she submitted the application seeking employment on compassionate

ground after a lapse of there years.

9. It is true, as contended by the learned Special Government Pleader that the objective of providing compassionate appointment is to tide over the sudden indigent circumstances unexpectedly created by the sudden death of the Government Servant. As the petitioner was a minor at the time of the death of her father and at the same time her mother was also not eligible for appointment, she could not submit any application for compassionate appointment within three years. But, immediately after attaining majority, she submitted an application to the 2nd respondent. Just because there is a delay in submitting the application for the said reason by the petitioner for compassionate appointment, it cannot be said that the family of the deceased Government servant has got over the indigent circumstances."

4. Since the issue involved in this case is squarely covered by the earlier decisions of this Court, I am inclined to allow the writ petition. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the second respondent is directed to consider the claim of the petitioner for compassionate appointment without reference to the delay in making the application, provided he is otherwise qualified to the post for which he is considered for appointment. Such exercise shall be done by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed."

6. Considering the above stated facts and circumstances and also the order passed by this Court in WP(MD) No.10386 of 2014, I am of the view that the petitioner's son, by this time has become major, is entitled to be considered for appointment on compassionate ground. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to consider the claim of the petitioner for providing appointment to her son viz., N.Sivaram on compassionate ground. The petitioner's son viz., N.Sivaram is directed to file a fresh application before the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the first respondent shall consider and pass orders on the same in the light of the order passed by this Court in WP

(MD) No.10386 of 2014 dated 27.06.2014, within a period of eight weeks from the date of receipt of such application. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

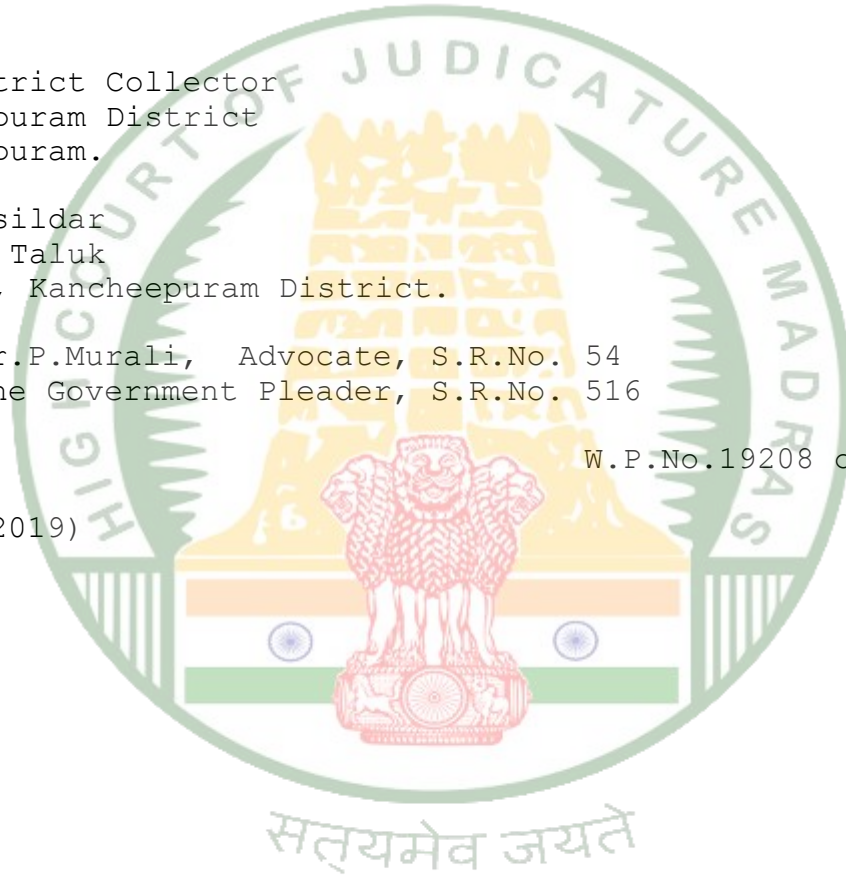
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2.The Tahsildar
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Cheyyur, Kancheepuram District.

+1cc to Mr.P.Murali, Advocate, S.R.No. 54
+1cc to the Government Pleader, S.R.No. 516

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