



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.27815 of 2018

and

WMP.No.32327 of 2018

M.Jeya Sumithra

..Petitioner

Vs.

1. Deputy Inspector General,
Officer-in-charge,
Bureau of Naviks,
Cheetah Camp,
Mankhurd,Mumbai.
2. Assistant Estate Manager,
Government of India,
Shastri Bhavan,
Chennai- 600 006.
3. The Commander,
Coast Guard Region, Hq. No.5 (TN)
Building No.4 & 4A, User Office Complex,
Clive Batter Building,
Rajaji Salai,
Chennai- 600 001.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying for the issue a writ or order or direction in the nature of writ of certiorarified mandamus calling for the records pertaining the impugned order dated 02.08.2018 in O.A.No.949 of 2018 on the file of the Madras Bench of Central Administrative Tribunal, Chennai and quash the same; consequentially direct the respondents to permit the applicant to retain the occupation of the Government Accommodation in Bl.No.30, Qr.No.18, Type-II -CPWD Quarters, KK Nagar, Chennai until appointment on compassionate ground is given to the petitioner, without evicting her family from the premise.



For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.V.Chandrasekaran, SPCGOI

WEB COPY

O R D E R

(Order of the Court was delivered by P.T.ASHA, J)

The above Writ Petition is filed challenging the order passed by the Central Administrative Tribunal (Madras Bench) in O.A.No.949 of 2018.

2. The facts in brief that are necessary to dispose of the above Writ Petition are as follows:

The petitioner's husband R.Muthukrishnan was employed in the Indian Coast Guard. He had met with a tragic end as the Air craft in which he was flying on official duty had gone missing over the Bay of Bengal on 22.07.2016. The body as of today has not been traced and the death was reported only in the month of November 2016. With the issue of the Death Certificate dated 21.11.2016 by the Deputy Inspector General, Mumbai, the petitioner had made an application for compassionate appointment which is still pending consideration with the respondents. She had been living with her husband and family at the CPWD Quarters, KK Nagar, Chennai and by letter dated 11.08.2017 they were permitted to retain the Government accommodation till 22.07.2018. The petitioner has not only suffered the loss of her husband in such tragic circumstance but she also has an elder son who is physically challenged and undergoing medical treatment.

3. In view of the above, just a month before she was due to handover the possession of the quarters, the petitioner had made a request to the respondents to permit her to retain the premises till she receives an order of compassionate appointment. The second respondent by proceedings dated 4.07.2018, rejected the request. Therefore, aggrieved by the said order, the petitioner had moved the Central Administrative Tribunal, Madras Bench.

4. The Tribunal by its order dated 02.08.2018 dismissed the said application holding that the compassionate appointment cannot be considered as a matter of right and that being the case, the petitioner cannot be permitted to continue in the Government accommodation. Challenging the said order, the petitioner has filed the present Writ Petition.

5. When the matter came up for admission on 15.11.2018, this Court has directed notice to the third respondent and had



granted order of status quo. The matter had come up in the list on several days and finally on 21.06.2019, this Court had directed the petitioner to file an affidavit indicating the time she would require to vacate the accommodation in question and the matter was directed to be posted on 02.07.2019 under the caption 'For Orders'. On 02.07.2019, when the matter was posted, an affidavit has been filed by the writ petitioner wherein she has undertaken to vacate the accommodation on or before 31.12.2019. She also requested waiver of the damages sought for by the respondents.

6. Heard Mr.Chandraskar, Senior Panel Counsel, Government of India and Mr. Neelakandan, learned counsel for the petitioner.

7. From the records, it is seen that the body of the petitioner's husband who had died in an Air Craft accident has not been traced till date and she has not been employed anywhere. That apart, her request for compassionate appointment to the first respondent is still awaiting orders. She also has to take care of a Physically challenged son who is undergoing medical treatment. Considering the fact that she has now given an affidavit of undertaking that she would vacate the property by 31.12.2019, this Court is inclined to record the undertaking with a direction to the respondent that the petitioner shall not be disturbed from the premises in question till 31.12.2019. The respondents shall also waive the damages claimed by them. This order is being passed taking into consideration, the tragic situation in which the petitioner is placed.

8. The Writ Petition is disposed off on the above lines. If the petitioner exceeds the stay over and above the time undertaken by her, it is open to the respondents to take steps as available to them under law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mrn

To,

1. The Deputy Inspector General,
Officer-in-charge, Bureau of Naviks,
Cheetah Camp, Mankhurd, Mumbai.



2. The Assistant Estate Manager,
Government of India,
Shastri Bhavan,
Chennai- 600 006.

WEB COPY

3. The Commander,
Coast Guard Region, Hq. No.5 (TN)
Building No.4 & 4A, User Office Complex,
Clive Batter Building, Rajaji Salai,
Chennai- 600 001.

+1cc to Mr.R.Neelakandan, Advocate, S.R.No.54738

W.P.No.27815 of 2018
and
WMP.No.32327 of 2018

PA(CO)
CS/05/09/2019