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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A. (MD) No.499 of 2019

CMP (MD) No.4259 of 2019

1. The State of Tamil Nadu
Rep. By its Secretary to Government
Social Welfare and Nutritious Meal Programme,
Secretariat, Fort St. George,
Chennai.

2. The District Collector,
Virudhunagar District
Virudhunagar.

3. The Project officer,
Integrated Child Development Scheme,
Virudhunagar District,
Virudhunagar.

: Appellants

Vs.

1. R.Beninal

2. The Commissioner
Rajapalayam Panchayat Union,
Virudhunagar District.

: Respondents

PRAYER: Appeal is filed under Clause 15 of Letters Patent Appeal against the order dated 10.01.2019 made in W.P.(MD) No.19277 of 2017.

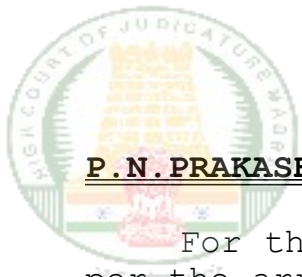
Prayer in WP(MD). 19277/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records on the file of the 4th respondent in connection with the impugned order passed by him in Na.Ka.No. A5/1734/2015 dated 14.03.2016 and quash the same as arbitrary and consequently direct the respondents to consider the Petitioners case for compassionate appointment in any suitable post based on her educational qualification within the time limit that may be stipulated by this Honble Court.

For Appellants

: Mr.A.K.Baskarapandian

Special Government Pleader

**JUDGMENT****P.N. PRAKASH, J**

For the sake of convenience, the parties will be referred to as per the array in the writ petition.

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2. R. Beninal's husband, viz., M. Rajendran was working as Noon Meal Organiser in a Panchayat Union School and he died in harness on 17.08.2009. Thereafter, one Margaret filed a suit claiming that she is the legally wedded wife of Rajendran and contested the claim of Beninal. The said suit was dismissed on 07.09.2011. Thereafter, Beninal applied for legal heirship Certificate and widow Certificate and obtained the same in the year 2015 and applied for compassionate appointment, which was rejected by the department vide order dated 14.03.2016. Challenging the said order, Beninal filed W.P.(MD) No.19277/2017, which was allowed by this Court on 10.01.19, challenging which, the department is before this Court with this present appeal.

3. Heard the learned Special Government Pleader appearing for the appellants.

4. The learned Special Government Pleader submitted that Beninal should have approached the authorities within three years of the death of her husband, whereas, she had approached only in the year 2015 and hence, she would not be entitled to compassionate appointment.

5. We are unable to agree with the submission, because, after death of her husband, one Margaret came into the picture and started contesting the claim of Beninal, which was dismissed only in the year 2011. The learned Special Government Pleader submitted that Beninal should have applied at least immediately after the suit was dismissed. We are unable to sustain this submission also for the reason that after the dismissal of the suit, Beninal had to approach the revenue authorities to obtain the widow certificate and legal heirship certificate and after getting the same, she applied in the year 2015. These factors were taken into consideration by the learned single Judge in allowing the claim of Beninal. We do not find any infirmity in the order passed by the learned single Judge warranting interference in appeal.

6. In view of the above, the writ appeal stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

sd/

Assistant Registrar(crl. side)

/True Copy/



To

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- +1 CC to SPL GP (SR-63356[F] dated 27/04/2019)

Order made in
W.A. (MD) No.499 of 2019 and
CMP (MD) No.4259 of 2019
26.04.2019

rr

MK (13.05.2019) 3P 6C