



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.16153 of 2018

and

W.M.P(MD)No.14390 of 2018

M.Akila

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Sugar Corporation Ltd.,
690, Annasalai,
Nandanam,
Chennai-600 035.

2.The Chief Manager,
Aringar Anna Sugar Mills,
Kurungulam-613 303,
Thanjavur District.

... Respondents

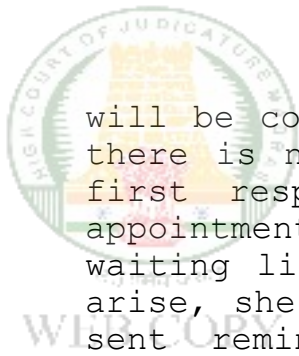
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in No.371/2018/E1 dated 17.05.2018 and quash the same and direct the respondents to appoint the petitioner in a suitable post in the office of the respondents on compassionate ground.

For Petitioner : Mr.AL.Kannan
For Respondents : Mr.S.Saji Bino

ORDER

This writ petition is filed challenging the impugned order passed by the first respondent in No.371/2018/E1 dated 17.05.2018 and quash the same and direct the respondents to appoint the petitioner in a suitable post in the office of the respondents on compassionate ground.

2. According to the petitioner, her father R.Mohan while working in the second respondent Sugar Mills died on 28.09.2001 leaving behind his wife, three daughters and one son. Immediately, the petitioner gave representation dated 15.10.2001 to the second respondent seeking compassionate appointment for appointing her in the suitable post. The petitioner was repeatedly sent the representations in this regard. The first respondent by the proceedings dated 29.07.2009 in Na.Ka.No.1256/09/E1, informed the petitioner that her request for appointment on compassionate ground



will be considered as and when vacancy arises and as on that date, there is no vacancy. Again, by the letter dated 01.04.2010, the first respondent informed the petitioner that her request for appointment on compassionate ground is in serial No.32 in the waiting list and when promotions are made and as and when vacancies arise, she will be considered for appointment. When the petitioner sent reminders to the respondents for appointment, the first respondent, by impugned letter dated 17.05.2018, rejected the request of the petitioner on the ground that the petitioner made application after delay of 4 ½ years from the date of death of her father and she has not made application within three years from the date of death of her father.

3. The learned counsel appearing for the petitioner submitted that the petitioner's brother also made an application for appointment on compassionate ground. The petitioner by an affidavit duly relinquished her right stating that her brother attained majority and she has got married and living separately. According to the learned counsel for the petitioner, the respondents have rejected the application of the petitioner in a mechanical manner and non-application of mind. The first respondent having informed the petitioner that her request for appointment on compassionate ground would be considered as and when vacancies arise and having informed the petitioner that her name is in waiting list No.32, erred in rejecting the application of the petitioner on the ground that she has not made application within three years. The respondents have not considered the application of the brother of the petitioner for compassionate appointment instead of giving appointment to the petitioner. The family of the deceased employee even now is in indigent circumstances and the petitioner or petitioner's brother are entitled to get appointment and prayed for allowing the writ petition.

4. The respondents filed counter affidavit and denied all the averments. Mr.S.Saji Bino, learned counsel appearing for the respondents contended that the petitioner did not submit the application in the year 2001 for appointment on compassionate ground. The petitioner made application only after 4 ½ years of death of her father. The petitioner ought to have made application within three years from the date of death of her father. The compassionate appointment is granted for immediate relief due to the death of the employee, who left the family in indigent circumstances. The petitioner has admitted that she is already married. Compassionate appointment can be granted strictly following the guidelines issued by the Hon'ble Apex Court and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.



6. From the materials available on record, it is seen that the respondents have rejected the request of the petitioner on the ground that the said application was made after 4 ½ years of death of the father of the petitioner. The reason given by the first respondent is contrary to his own communications dated 29.07.2009 and 01.04.2010. In the said communications, the first respondent has informed the petitioner that her request would be considered as and when vacancies arise and in the communication dated 01.04.2010, the first respondent has stated that the petitioner is in waiting list No.32, for consideration of appointment on compassionate ground and as and when vacancies arise after promotion, her request would be considered. Having informed so, it is not open to the respondents to reject the claim of the petitioner for compassionate appointment on the ground of delay. In the counter affidavit, the respondents have not denied the communications dated 29.07.2009 and 01.04.2010, which are filed in the typed set of papers in the present writ petition. Now, the petitioner's brother sought appointment on compassionate ground instead of petitioner. The petitioner has relinquished her right in favour of her brother.

7. Considering all the materials on record, especially, two communications of the first respondent, dated 29.07.2009 and 01.04.2010, the respondents are directed to appoint the petitioner's brother in any one of the suitable posts in accordance with his educational qualification, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above observations and direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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+1 CC to Mr.AL.KANNAN, Advocate (SR-99509[F] dated 19/11/2019)

W.P. (MD)No.16153 of 2018
15.11.2019

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