

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3458 of 2020

C. Anusuya

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep.by the Secretary to Government,
Social Welfare and Nutritious Meal Department,
Secretariat,
St.George Fort,
Chennai - 600 009.

2.The Commissioner,
Commissionerate of Social Welfare,
No.1, Panagal Maligai Building,
II Floor, Saidapet,
Chennai - 600 015.

3.The District Planning Officer,
Integrated Child Development Program,
District Collectorate,
Villupuram District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, calling for the records connected with proceeding of the second respondent bearing Letter No.39490/Adm4 (3)/2019 dated 06.01.2020 and quash the same as illegal, arbitrary and contrary to law and consequently direct the respondents to provide appointment to the petitioner on compassionate grounds in the suitable post in light of G.O.No.18 dated 23.01.2020 within the time frame stipulated by this Court.

For Petitioner : Mr. P.R. Dhillip Kumar

For Respondent : Mr. P.S. Siva Shanmuga Sundaram
Special Government Pleader.

O R D E R

This writ petition has been filed challenging the order of rejection passed by the second respondent dated 06.01.2020.

2. The case of the petitioner is that her mother was working in the third respondent office and she died on 19.09.2015 while in service. The mother of the petitioner died leaving behind the petitioner and her three sisters as her legal heirs. Since the family was facing financial crisis, the petitioner had made an application seeking for compassionate appointment. This application came to be rejected by the second respondent only on the ground that the petitioner has crossed the age limit on the date when she submitted the application. Aggrieved by the same, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that the order of the second respondent requires interference. He also brought to the notice of this Court, the subsequent Government order that has been passed in G.O.No.18 dated 23.01.2020, where the age limit has been increased to 40 years. The relevant portion in the Government order is extracted hereunder:-

"(iii) The maximum age limit for the son or daughter of the deceased Government Servant and unmarried brother / unmarried sister of the unmarried deceased Government Servant is 40 years at the time of applying."

4. The learned counsel submitted that in view of the latest Government order, the second respondent can again be directed to consider the application made by the petitioner seeking for compassionate appointment.

5. The learned Special Government Pleader appearing on behalf of the respondents submitted that this Government order will only have prospective effect and it will not enure to the benefit of the petitioner.

6. The whole concept behind providing compassionate appointment is to tide over the financial crisis due to the sudden death of the breadwinner of the family. The various terms and conditions that is provided in the Government order is more procedural in nature. Therefore, whatever amendment is made to such procedure, it will obviously have retrospective effect. The law on this issue is well settled. That apart with the present case, the second respondent found that the petitioner had overshoot the age limit by 8 months and 12 days. Even though,

this is a very hyper technical approach made by the second respondent, in view of the Government order in G.O.Ms.No.18 Labour and Employment Department dated 23.01.2020, the petitioner is entitled to be considered for compassionate appointment since she qualifies the age limit that has been fixed in this Government order on the date of death of the breadwinner.

7. In the result, the petitioner is directed to submit an application to the second respondent seeking for compassionate appointment. The second respondent is directed to consider the said application in line in G.O.Ms.No.18, dated 23.01.2020. The earlier rejection order shall not to put against the petitioner and the application shall be considered afresh by the second respondent.

8. This writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT



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To

1.The Secretary to Government,
Government of Tamil Nadu,
Social Welfare and Nutritious Meal Department,
Secretariat,
St.George Fort,
Chennai - 600 009.

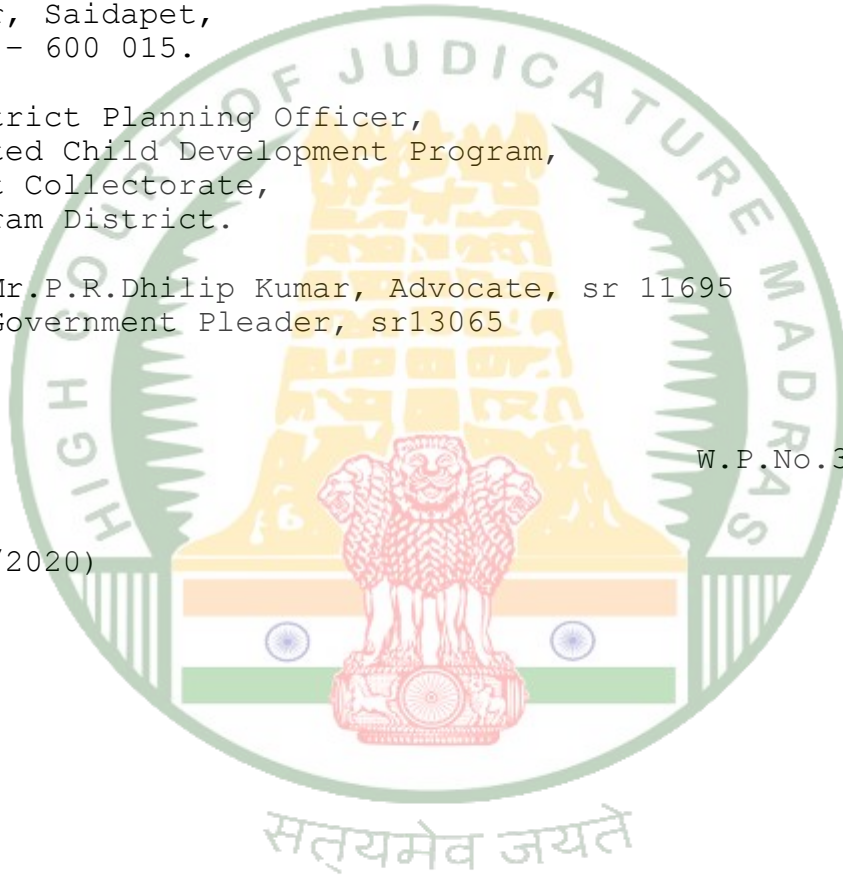
2.The Commissioner,
Commissionerate of Social Welfare,
No.1, Panagal Maligai Building,
II Floor, Saidapet,
Chennai - 600 015.

3.The District Planning Officer,
Integrated Child Development Program,
District Collectorate,
Villupuram District.

+1 CC to Mr.P.R.Dhilip Kumar, Advocate, sr 11695
+1 CC to Government Pleader, sr13065

W.P.No.3458 of 2020

VBA (CO)
AT (22/05/2020)



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