



WEB COPY

W.P.(MD)Nos.25731 of 2019 & 17347 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.02.2020

PRONOUNCED ON : 28.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W.P.(MD)Nos.25731 of 2019 & 17347 of 2018

and

W.M.P. (MD)No.15252 of 2018

S.Vanaja

...Petitioner in both W.Ps.

/vs./

1.The State of Tamilnadu,
represented by its Secretary,
Educational Department, Chennai.

2.The Joint Director,
Department of School Education,
Chennai - 600 006.

3.The District Educational Officer,
Ramanathapuram District,
Ramanathapuram.

4.The Headmaster,
Government High School,
Thirupalaikudi, Tihruvadanai Taluk,
Ramanathapuram District.

...Respondents in both W.Ps.

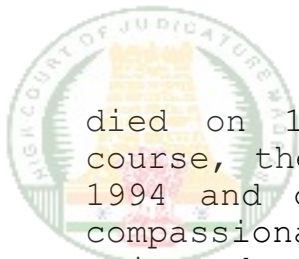
COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of rejection passed by the 3rd and 2nd respondents in his proceedings in Na.Ka.No.55713/J3/2018 and Na.Ka.No.3379/A1/2017 dated 24.07.2019 and 27.03.2018 respectively, quash the same as illegal and arbitrary and consequently directing the respondents to appoint the petitioner in any one of the post in the respondents department as suitable for her qualification, within a stipulated period prescribed by this Court.

For Petitioner : Mr.K.Mahendran
(in both WPs)

For Respondents : Mr.M.Karuppasamy
Government Pleader
(in both WPs)

COMMON ORDER

The petitioner herein is the daughter of R.Lakshmi, who was a Secondary Grade Teacher in a Government School, Thirupalaikudi, and
<https://hcservices.ecourts.gov.in/hcservices/>

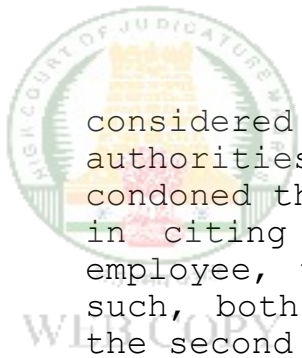


died on 17.05.1985. After completion of her higher secondary course, the petitioner claims to have attained majority in the year 1994 and on 10.04.1996, she had made an application seeking for compassionate appointment. The petitioner's application came to be rejected on 21.10.2010, which was put under challenge before this Court in W.P.(MD)No.4115 of 2011 and this Court, by order dated 10.02.2017 had directed the respondents to re-consider the petitioner's application dated 10.04.1996 for appointment on compassionate grounds. However, without reference to the orders passed by this Court in W.P.(MD)No.4115 of 2011, the third respondent herein had passed an order dated 27.03.2018 stating that the petitioner's brother is a practising advocate and since he was drawing a handsome income, the petitioner's claim cannot be considered. This order dated 27.03.2018 is under challenge in W.P.(MD)No.17347 of 2018.

2. In the meantime and in consequence to the earlier orders passed by this Court in W.P.(MD)No.4115 of 2011, the second respondent herein had rejected the petitioner's application for compassionate appointment, through the impugned proceedings dated 24.07.2019, which is under challenge in W.P.(MD)No.25731 of 2019. As per the impugned order dated 24.07.2019, the petitioner's claim was rejected on the ground that her claim after 34 years from the date of death of the Government employee (petitioner's mother) cannot be considered. Since the issue involved in both the writ petitions are one and the same, a common order is passed.

3. The reason assigned in the impugned order dated 27.03.2018 by the third respondent herein cannot be sustained, since no justification has been given therein as to how he came to the conclusion that the petitioner's brother was earning a handsome salary after enrolling himself as an Advocate. Apart from the same, the third respondent has not referred to any regulation, which disentitles the petitioner from claiming compassionate appointment, when her brother is employed. As a matter of fact, when the Government scheme for compassionate appointment enables one of the legal heirs to claim for compassionate appointment and particularly, when this Court, in its earlier order dated 10.02.2017 passed in W.P.(MD)No.4115 of 2011 had already directed the respondents to re-consider the petitioner's case, such a reasoning given by the third respondent in his impugned order dated 27.03.2018 cannot be sustained.

4. Likewise, in the impugned order passed by the second respondent on 24.07.2019, the reasoning cited is that compassionate appointment cannot be granted, after 34 years from the date of death of the employee. This reasoning again cannot be sustained, since this Court had earlier considered all these aspects in its order passed in W.P.(MD)No.4115 of 2011 and had directed the respondents to re-consider the petitioner's claim. Apparently, this Court had



considered the earlier paucity of time and by directing the authorities to re-consider the case, this Court had effectively condoned the laches. As such, the second respondent is not justified in citing the time consumption from the date of death of the employee, till the appointment may not be a sufficient cause. As such, both the impugned orders passed by the third respondent and the second respondent, cannot be sustained in the eye of law.

5. It is rather unfortunate that the petitioner herein had made an application within time and the respondents have been unnecessarily delaying in taking a decision on the same. In view of the fact that none of the reasons cited by the respondents 2 and 3 in their impugned orders dated 27.03.2018 and 24.07.2019 can be sustained, it would be appropriate to direct them to forthwith issue an appointment order to the petitioner within a stipulated time.

6. In the light of the above observations, the impugned orders passed by the 3rd and 2nd respondents in his proceedings in Na.Ka.Nos.3379/A1/2017 and 55713/J3/2018 dated 27.03.2018 and 24.07.2019 respectively are set aside. Consequently, there shall be a direction to the first respondent to appoint the petitioner in the respondent department or any other Government Department, to such post that may commensurate with her qualification. The first respondent shall endeavour to issue the appointment order, atleast within a period of four (4) weeks from the date of receipt of a copy of this order. These Writ Petitions are allowed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Secretary,
Educational Department, Chennai.
- 2.The Joint Director,
Department of School Education,
Chennai - 600 006.
- 3.The District Educational Officer,
Ramanathapuram District,
Ramanathapuram.



4.The Headmaster,
Government High School,
Thirupalaikudi,
Tihruvadanai Taluk,
Ramanathapuram District.

+1 CC to SPL.GP (SR-9514[F] dated 02/03/2020)

+1 CC to Mr.K.MAHENDRAN, Advocate (SR-9555[F] dated 02/03/2020)

Order made in
W.P. (MD)Nos.25731 of 2019 & 17347 of 2018
28.02.2020

VB (14.08.2020) 4P 7C