

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3514 of 2021

Chandraleka

... Petitioner

Vs

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St. George, Chennai-9.
- 2.The Secretary,
Adi Dravidar & Tribal Welfare Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-9.
- 3.The District Collector,
Cuddalore District,
Gundu Salai Road, Pennaiyar Road,
Manjakuppam, Cuddalore-607 001.
- 4.The District Collector,
Trichy District, Raja Colony,
Tiruchirappalli-620 001.

.... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to consider and pass orders on petitioner's representation dated 05.01.2020 by giving public employment to her in terms of Rule 12 and Sl.No.46 of Annexure I of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 with all consequential benefits.

For Petitioner : Ms.K.Nithyashree

For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking a direction to the respondents to consider and pass orders on the petitioner's representation dated 05.01.2020 by giving public employment to her in terms of Rule 12 and Sl.No.46 of Annexure I of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 with all consequential benefits.

2. By consent of both sides, the writ petition is taken up for final disposal at the admission stage. Mr.R.A.S.Senthilvel, learned Additional Government Pleader takes notice for the respondents.

3. The case of the petitioner is that the sister of the petitioner, namely Senthamizh (deceased) was appointed as a Prison Woman Warden in the prison Department on 01.11.2017. While she was working as Prison Women Warden, she initially fell in love with one Vetri of Ariyalur District, who was her colleague. Since he belonged to upper caste, her deceased sister started, avoiding him and subsequently she committed suicide on account of the unbeatable torture given by him and his family members. According to the petitioner, her sister was the sole bread winner of their family and after her demise, their family is in lurch. As the petitioner is entitled to public employment in terms of Rule 12 (4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sl.No.46 of Annexure I of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, she submitted a representation to the respondents, dated 05.01.2020 seeking public employment as additional relief. But till date, there is no response thereon. Having no other effective or alternative remedy, except to approach this Court, the petitioner has come forward with this present writ petition.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 3rd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 3rd respondent herein to consider the representation preferred by the petitioner dated 05.01.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy

of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 3rd respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.01.2020 and this order, to the 3rd respondent forthwith;

v) The 3rd respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order.

5. It is made clear that in case employment is provided to the petitioner on compassionate ground, she should be posted only under Class - IV category and not under Class-III. This Court further makes it very clear that in the event of consideration of appointment of the petitioner, on compassionate ground 25 % of the gross monthly income of the petitioner shall have to be directly deposited into the joint account (excluding the petitioner herein) of her parents and other eligible legalheirs if any, by way of NEFT or RTGS every month and the said gross income is subject to income tax deductions, so as to ensure that other legalheirs are not let down without proper care. The entire gross income is subject to income tax deductions and the proportionate tax deduction will have to be made by the 3rd respondent, on the 25% amount payable to the petitioner and remit the same to the Income tax Department. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vum

To:

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St. George, Chennai-9.
2. The Secretary,
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+1cc to Mr.K.Nithya Shree, Advocate, S.R.No.10564

+1cc to the Government Pleader, S.R.No.10713

W.P.No.3514 of 2021

GP(CO)
CB(08/07/2021)

सत्यमेव जयते

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