

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5444 of 2021

P.Vithya

... Petitioner

-vs-

1. The District Collector,
Cuddalore District,
Cuddalore.

2. The Block Development Officer,
Vridhachalam Panchayat Union,
Vridhachalam Taluk,
Cuddalore District.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to consider and pass an order on petitioner representation dated 06.11.2017 and 28.12.2020, which is seeking appointment under compassionate ground to the petitioner .

For Petitioner : Mr.R.Sethuvarayar

For R1 : Mr.P.Karthikeyan
Addl. Govt. Pleader

For R2 : Mr.Dig Vijaya Pandian
Addl. Govt. Pleader

O R D E R

The petitioner has filed this writ petition, seeking a direction to the 1st respondent to consider and pass orders on representations dated 06.11.2017 and 28.12.2020 of the petitioner, for providing public appointment on compassionate ground.

2. Mr.P.Karthikeyan, learned Additional Government Pleader takes notice for R1 and Mr.Dig Vijaya Pandian, learned Additional Government Pleader for R2. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, her father, who was working as Village Secretary at Vridhachalam Panchayat Union, died in harness on 02.02.2016 and her mother submitted an application for suitable job on 20.06.2016 and due to her old age, she sent a representation dated 06.11.2017 for providing a job to her, by duly furnishing no objection certificates obtained from other legal heirs and the said representation was duly received by the 1st Respondent on the very same date itself. It is the case of the petitioner that due to inaction on the part of the 1st Respondent, she submitted yet another application to the 2nd Respondent on 07.06.2018, seeking for an appointment on compassionate ground and even after a lapse of more than two years, the Respondents have not taken any decision on her representations, thereby diluting the very purpose of compassionate appointment scheme. It is further case of the petitioner that she once again sent an application on 28.12.2020 with the similar request to eke out her and her family's livelihood and since all her efforts did not bring any fruitful results on account of non-consideration of her representations, she is before this Court.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations dated 06.11.2017 (which was submitted within a period of three years), following by a reminder dated 28.12.2020 are already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representations of the petitioner dated 06.11.2017 and 28.12.2020, 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 respondents 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 06.11.2017 and 28.12.2020 and this order, to the respondents forthwith;

v) The respondents are 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 the mother and other eligible legalheirs, 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 be made by the Respondents, on the 25% amount payable to the petitioner and remit the same to the Income Tax Department. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CCC)

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//True Copy//
Sub Assistant Registrar

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To:

1. The District Collector,
Cuddalore District,
Cuddalore.

2. The Block Development Officer,
Vridhachalam Panchayat Union,
Vridhachalam Taluk,
Cuddalore District.

+1cc to Mr.R.Sethuvarayar, Advocate, sr no.15336

W.P.No.5444 of 2021

NR (CO)
RMP (19/04/2021)



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