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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 22646 of 2014

P.Janani

..Petitioner

Vs

1. The Government of Tamil Nadu
rep. By its Secretary to Government
Higher Education (G2) Department,
Fort St.George, Chennai -600009
2. The Deputy Secretary,
Higher Education (G2) Department,
Fort St.George, Chennai -600009
3. The Director,
O/o. Directorate of Collegiate Education,
Chennai - 600006.
4. The Principal,
The Presidency College,
Chennai -600005.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of certiorarified mandamus, calling for the records made in the impugned order dated 18.07.2014 in Na.Ka.No. 46221/B2/2013 passed by the 3rd respondent herein and quash the same and to further direct the 3rd respondent to issue appointment letter to the petitioner on compassionate grounds and pass such further or other orders.

For Petitioner : Mr.P.Srinivasan

For Respondents : Mr.T. Arun Kumar, AGP

O R D E R

The prayer sought for in the writ petition is to call for the records made in the impugned order dated 18.07.2014 in Na.Ka.No. 46221/B2/2013 passed by the 3rd respondent herein and quash the same and to further direct the 3rd respondent to issue appointment letter to the petitioner on compassionate grounds



and pass such further or other orders.

2. The writ petitioner's father namely L. Pandian who worked as typist in the 4th respondent college had died on 14.05.2001 leaving behind the petitioner and her mother as his legal heirs. The petitioner's mother had sent representation for appointment on compassionate grounds, due to ill health she died on 27.05.2003. The petitioner herein was 10 years old at the time of the death of her mother. Subsequently, the petitioner, at the age of 18 years, sent a representation on 19.06.2012 to the 4th respondent college seeking appointment to the post of Junior Assistant on compassionate grounds. The said request rejected by the 3rd respondent stating reason that her representation is second in nature. Challenging the same, the present writ petition is filed.

3. Heard both sides and perused the materials available on record.

4. According to the learned counsel for the petitioner, the petitioner's mother had submitted application for compassionate appointment within a time, subsequently she died on 27.05.2003. After the death of her mother, the petitioner has submitted application on 09.06.2012. The said application was rejected on the ground that the 2nd application is not maintainable. The said rejection order was passed without considering G.O.Ms (No) 18 Labour and Employment (Q1) Department, dated 23.01.2020, wherein it is stated that if the original applicant died, alternative application is permitted. Therefore, the petitioner's application is within a time. It is contended by the learned counsel for the petitioner that despite the representation made by the petitioner's mother within a time frame, the respondents did not provide any appointment to the petitioner's mother, subsequently she died. Therefore, the respondents ought to have consider the request letter made by the petitioner and pass appropriate orders, since no other person is left in the family.

5. The learned Additional Government Pleader submitted has submitted a counter affidavit filed on behalf of the 3rd respondent, wherein it is has been stated that the Government in G.O. MS.No. 212 dated 29.11.2001 has imposed a ban on recruitment to effect economy in expenditure. Therefore, the application of the petitioner had not been considered during the period from 2001 to 2006. Subsequently, the petitioner herein, the daughter of the deceased Government servant had given application on 09.06.2012 for compassionate appointment. Based on the clarification, the impugned order of rejection came to be passed by the 3rd respondent.

6. The learned Additional Government Pleader has further



submitted that if a liberty is granted to the petitioner to seek review of the impugned order, the 1st respondent shall consider the same and pass appropriate orders on merits, taking note of the observations made by this Court.

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7. At this juncture, the learned counsel for the petitioner has brought to the notice of this Court that no orders have been passed by the respondent on the representation made by the petitioner's mother. In such circumstances, the petitioner has made representation seeking compassionate appointment.

8. The 3rd respondent had passed the impugned order based on the order passed by the 1st respondent. However no challenge has been made to the order of the 1st respondent. The impugned order of the 3rd respondent is also contrary to the aforesaid G.O. Ms.No. 18 Labour and Employment (Q1) Department, dated 23.01.2020. Since the order of the 1st respondent has not been communicated to the petitioner, the petitioner has challenged the impugned order passed by the 3rd respondent, hence the order of the 1st respondent requires reconsideration.

9. In view of the above facts of the circumstance of the case and the submissions made by the learned counsel on either side, the petitioner is directed to make a representation before the 1st respondent for reviewing the order passed by the 1st respondent. On receipt of such representation, the 1st respondent shall consider the same afresh in th light of the G.O. Ms.No. 18 Labour and Employment (Q1) Department, dated 23.01.2020 and pass orders on merits and in accordance with law, as expeditiously as possible, preferably within a period of twelve (12) weeks from the date of receipt a copy of this Order.

10. With the above directions and observation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Higher Education (G2) Department,
Fort St.George, Chennai -600009



2. The Deputy Secretary,
Higher Education (G2) Department,
Fort St.George, Chennai -600009

3. The Director,
O/o. Directorate of Collegiate Education,
Chennai - 600006.

4. The Principal,
The Presidency College,
Chennai -600006.

+1cc to Mr.P.Srinivasan, Advocate, S.R.No.62034

+1cc to the Government Pleader, S.R.No.62643

W.P.No. 22646 of 2014

NRL (CO)
RGA (23/12/2021)