



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2021

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HON'BLE MRS.JUSTICE S.ANANTHI

W.A.(MD) No. 787 of 2021

and C.M.P(MD) .No. 3540 of 2021

(Through Video Conference)

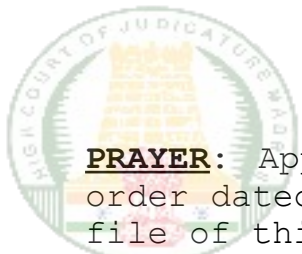
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R. Muthu Barathi

... Appellant/Petitioner

Vs

1. The Government of Tamilnadu,
Rep. By its Secretary,
Public Works Department,
Saint George Fort, Chennai - 600 009.
 2. The Principal Chief Engineer,
Water Resources Organization
Cum Chief Engineer,
Public Works Department,
Chepauk, Chennai - 600 005.
 3. The Chief Engineer,
Public Works Department,
Water Resources Organisation,
State Ground and Surface Water resources data center,
Tharamani, Chennai - 600 113.
 4. The Superintending Engineer,
Public Works Department,
Water resources Organization,
Special Project - Circle,
Chepauk, Chennai - 600 005.
 5. The Executive Engineer,
Public Works Department,
Water Resources Organization,
Special Project Division - IV,
Kanchipuram District.
 6. The Superintending Engineer,
Water Sources Organization,
Public Works Department,
No.46, North Chitirai Street,
Madurai - 1.
- ... Respondents/Respondents



PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 05.08.2019, passed in W.P.(MD) No. 13817 of 2014. on the file of this Court.

Prayer in WP(MD). 13817/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus is filled calling for the records pertaining to the impugned order in Letter No. E2 (4) / 3990/ 2014 dated 14.06.2014 on the file of the Respondent No. 4 and quash the same as illegal and consequently directing the Respondent No. 1 to appoint the petitioner on compassionate grounds for any post for which she is eligible within the time period stipulated by this Honble Court.

For Appellant : M/s.Akilandeswari
for M/s.T. Lajapathi Roy

For Respondents : Mr.A.K. Manickam
Standing Counsel

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard M/s.Akilandeswari for Mr.Lajapathi Roy, learned counsel appearing for the appellant and Mr.M. Manickam, learned standing counsel appearing for the respondent Government.

2. This Appeal by the writ petitioner is directed against the order dated 05.08.2019 in W.P.(MD) No.13817 of 2014 passed by the learned Single Judge of Judge of this Court.

3. The said writ petition was filed by the appellant challenging the order passed by the fourth respondent, dated 14.06.2014 rejecting her application for grant of appointment on compassionate ground. After going through the impugned order, we fully subscribe to the findings rendered by the learned Single Bench on the legal position, namely, no person has got the vested right to seek for appointment on compassionate ground and an appointment on compassionate ground can be granted only in accordance with the Scheme formulated by the Government or the Employer.

4. In certain cases, Courts have carved out an exception by noting the facts of each case. We proposed to do so in the instant case, by taking note of the peculiar circumstances. The father of the appellant died in harness on 24.11.2004, when he was working as a Driver in the respondent Department. The appellant and her mother are the two legal heirs. The appellant was 12 years of age and her mother was 41 years old. The appellant's mother submitted a representation on 09.08.2007 clearly mentioning that the appellant is undergoing her school education and she is in the 9th standard, studying in the Government High School, Kovilpatti and requested appointment to be granted to her on compassionate ground by keeping



the application in the wait list.

5. The question would be whether such a request was maintainable or not? Under normal circumstances, such applications are not maintainable. Therefore, it was well open to the respondent Department to reject the representation and inform the appellant's mother. But, they did not do so and the application was kept pending till 2014 and by order dated 14.06.2014, the application, followed by the representations given, has been rejected on the ground that, as on 09.08.2007, the appellant had not completed 18 years of age. In other words, within three years from the date of demise of her father, the appellant had not completed 18 years of age.

6. Under normal circumstances, we would have accepted the stand taken by the respondent Department. But, in the peculiar facts of the present case, we proposed to take a slightly different view. We find that the application given by the mother in the year 2007, was seeking compassionate appointment for her daughter/appellant. It was clearly mentioned that she was studying 9th standard and was 11 years of age and requested the application to be kept in the wait list. Till 2014, neither the appellant nor her mother have been informed about the fate of their representation. Therefore, considering the economic background, we can safely conclude that the appellant and her mother were led to believe that the representation was kept in the wait list. This is fortified because the application was forwarded to the Higher Authority by the Superintending Engineer by communication, dated 27.08.2007. Thus, we are of the view that, the peculiar facts and circumstances of the case would require a different approach. For such reasons, we are inclined to grant relief to the appellant.

6. In the result, the Writ Appeal is allowed. The order, dated 05.08.2019 in W.P(MD) No.13817 of 2014 passed by the learned Single Bench of this Court and the impugned order, dated 14.06.2014 in Letter No.E2(4)/3990/2014 passed by the 4th respondent are set aside. The respondent Department is directed to offer an appointment to the appellant to any entry level post in the respondent Department, within a period of four (04) months, from the date of receipt of copy of this Judgment. It is made clear that the Judgment shall not be treated as a precedent. No costs. Consequently, connected miscellaneous petition is closed.

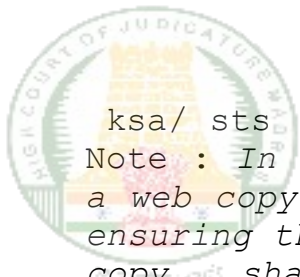
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Assistant Registrar (AD-II)

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/ /2021

Sub Assistant Registrar(CS)



ksa/ sts

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Water Sources Organization,
Public Works Department,
No.46, North Chitirai Street,
Madurai - 1.

+1 CC to M/s.T.LAJAPATHY ROY, Advocate (SR-18760[F] dated 04/06/2021)

+1 CC to M/s.SPL GP (SR-18971[F] dated 07/06/2021)

Judgment made in
W.A. (MD) No.787 of 2021

Dated:
03.06.2021

CN(21.06.2021) 4P 9C