



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE S.ANANTHI

W.A.(MD) No.846 of 2021

and

CMP(MD).No.3763 of 2021

R.Vimala

... Appellant/Petitioner

Vs

The Assistant Executive Engineer,
Public Works Department,
Water Basin Sub Division No.1,
Thanjavur-7.

... Respondent/Respondent

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 19.01.2021, passed in W.P(MD).No.1889 of 2017.

Prayer in WP(MD). 1889/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the respondent herein in his proceedings No.Ko.19/Vu.Se.Po.1/2016 dated 6.10.2016 and quash the same and consequently direct the respondent to appoint the petitioner on compassionate grounds in any one of the vacancies as per the Rules for compassionate appointment.

For Appellant	:	Mr.Veera Kathiravan Senior Counsel for M/s.Veera Associates
For Respondent	:	Mr.K.P.Krishnadoss, Special Government Pleader

JUDGMENT

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

This writ appeal is directed against the order passed in W.P (MD).No.1265 of 2021, dated 27.01.2021.

2. The appellant is the daughter of one Mr.Ramachandran, who was formerly working as Works Inspector in the respondent-Department and died in harness. Challenging the respondent's proceedings, dated 06.10.2016, by which, the request made by the appellant for considering her for appointment on compassionate ground, was rejected.



3. The learned Writ Court held that the order of rejection does not call for interference and that grant of employment on compassionate ground is not a source of recruitment nor a bonanza. Aggrieved by the said order, the appellant is before us.

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4. We have elaborately heard Mr.Veera Kathiravan, learned Senior Counsel appearing for the appellant and Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondent.

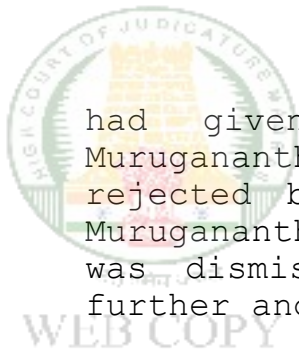
5. At the first blush, on perusal of the order impugned in the writ petition dated 06.10.2016, one gets an expression that the request made by the appellant for grant of appointment on compassionate ground was rightly rejected, but, on a closer scrutiny of the facts and considering the circumstances which are prevailing even as on date, we are inclined to take a different view and grant appropriate relief to the appellant.

6. We support such conclusion with the following reasons:

The appellant's father Ramachandran was married to Tmt.Saroja, who is the mother of the appellant. The said Tmt.Saroja died on 25.11.1981, leaving behind her husband Ramachandran and appellant herein as her two legal heirs. The appellant's father married one Kamala as the second wife and through her, he had two sons, by name, Muruganantham and Bharathirajan. The appellant's father died in harness on 25.07.1997 and the legal heirs were entitled to apply for grant of appointment on compassionate ground. The appellant submitted an application on 20.11.1998 and was fully eligible for being considered at that point of time. However, the second wife of appellant's father raised an objection and she filed an application for grant of appointment on compassionate ground to herself. This was rejected by the Department on 27.05.1999. The step mother of the appellant did not challenge the said order. On the date when the appellant's father died, that is on 25.07.1997, the elder son born to the second wife was aged about 11 years.

7. This is precisely of the reason, the second wife had filed an application for grant of appointment for herself. It appears that the appellant has been requesting her step mother to grant 'No Objection Certificate' to her, so that, her application for compassionate appointment can be processed and she would get that employment and the step mother refused to do so and dragged on the matter for about more than seven years. In the affidavit filed in support of the writ petition, the atrocities met out to her have been set out, which we need not be examined.

8. Be that as it may, the step brother of the appellant - Muruganantham applied for grant of compassionate appointment on 16.02.2007. This was rejected by the Department on 09.03.2010. It is an undisputed fact that at the relevant point of time, the appellant



had given No Objection Certificate for her step brother Muruganantham to apply. The fact remains that the application was rejected by an order dated 09.03.2010, which was challenged by Muruganantham by filing W.P.No.11292 of 2010. The said writ petition was dismissed on 09.03.2011. The step brother did not proceed further and the matter attained finality.

9. In this factual back ground, the appellant requested the Department to consider her case by submitting representation which has been rejected by an order dated 06.10.2016. Considering the peculiar facts and circumstances of the case, the No Objection Certificate issued by the appellant in favour of her step brother cannot be considered as an impediment for the appellant's application to be considered.

10. In any event, the step brother's application and the step mother's application were rejected and those orders have attained finality. That apart, it is not in dispute that the first application given by the appellant for grant of appointment on compassionate ground was on 20.11.1998, well within the three year period as her father died on 27.05.1997. Thus, considering the peculiar facts and circumstances of the case, we are of the considered view that the application given by the appellant for grant of appointment on compassionate ground should be considered on merits, that is, to meet other issues as to whether that the appellant is in indigent circumstances etc., and not on any other ground.

11. Accordingly, the writ appeal is allowed. The order passed in the writ petition is set aside and consequently, the order passed by the respondent dated 06.10.2016 is also set aside and the respondent is directed to consider the appellant's application for grant of appointment on compassionate ground, assess her financial capacity and pass orders within a period of six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

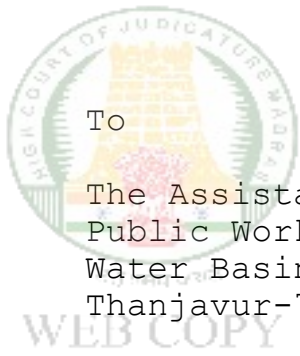
Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

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

The Assistant Executive Engineer,
Public Works Department,
Water Basin Sub Division No.1,
Thanjavur-7.

+1 CC to M/s.SPL GP (SR-16732[F] dated 20/04/2021)

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-16356[F] dated
19/04/2021)

W.A. (MD) No.846 of 2021
19.04.2021

PM(CO)

KB(27.05.2021) 4P 4C