



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.(MD) No.349 of 2018

M.Geethanjali

... Appellant/Petitioner

Vs

1. The Director,
Department of Public Health and Preventive Medicine,
Chennai - 6.
2. The Deputy Director of Health Services,
Department of Public Health and Preventive Medicine,
Sivakasi, Virudhunagar District.
3. The Medical Officer,
Primary Health Centre,
M.Pudhupatti,
Sivakasi Taluk,
Virudhunagar District.

... Respondents/Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 03.01.2018, passed in W.P(MD).No.9819 of 2013.

Prayer in WP(MD). 9819/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus or any other writ of such nature directing the 1st Respondent to consider the petitioners application dated 17.04.2013 for appointment to the post of junior assistant or any suitable post in any district in repondent department on in compassionate ground.

For Appellant	:	Mr.S.Meenakshi Sundaram Senior Counsel for N.Ga.Natraj
For Respondents	:	Mr.K.P.Krishnadoss, Special Government Pleader,



JUDGMENT

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

WEB COPY Heard Mr.S.Meenakshi Sundaram, learned Senior Counsel appearing for the appellant and Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondents.

2. This appeal is directed against the order, dated 03.01.2018, passed in W.P(MD).No.9819 of 2013. The appellant filed the writ petition praying for a direction to the first respondent to consider her representation for grant of appointment on compassionate ground. The learned Single Bench after referring to various decisions of the Hon'ble Supreme Court and this Court, dismissed the writ petition.

3. In our considered view, a need did not arise for the Court to express any opinion on the correctness of the claim made by the appellant as the relief sought for in the writ petition was an innocuous releif for a direction to consider the representation.

4. The second respondent had expressed his opinion by communication, dated 04.04.2013, stating that the application is beyond the period of three years from the date of demise of the employee and therefore, the same cannot be entertained. However, the appellant does not dispute the fact that the application is being processed by her at present, but she has a very peculiar case to be considered by the respondents.

5. After hearing the learned Senior Counsel appearing for the appellant, we are also of the view that the case of the appellant is very peculiar case, which may require a consideration by the Head of Department, namely, the first respondent herein.

6. We say so, because of the following facts:

The appellant's mother Tmt.R.Murugeswari, was working as a Village Health Nurse attached to the Government Primary Health Centre, M.Pudhupatti and she died in harness on 17.02.2006. The death was not natural, but she was murdered by none other than by her husband/appellant's father. The appellant's father is now serving life imprisonment since 2006. On the date when the appellant's mother was done to death, the appellant was aged about 11 years and she had a younger brother. The circumstances would clearly show that the appellant and her brother were virtually orphans, because the mother is no more and the father is serving life imprisonment.



7. The learned Senior Counsel appearing for the appellant submitted that the appellant's younger brother M.Krushisankar has also left the appellant to fend herself.

8. The appellant pursued her claim for grant of appointment on compassionate ground after she attained majority on 19.03.2013. It is, no doubt, that the scheme formulated by the Government states that the application for grant of appointment on compassionate ground should be submitted within three years, from the date of demise of the Government servant. The facts of the present case have obviously precluded the appellant from making such a claim. Under normal circumstances, the Court could not grant relief. To that extent, we agreed with the learned Single Bench, but however, considering the innocuous relief sought for, the matter could have been left to the decision of the Head of the Department and if there are any avenues to exercise compassion, the application can be considered.

9. For the above reasons, the writ appeal is allowed. The order passed in the writ petition is set aside and the appellant is directed to submit a fresh representation enclosing all relevant documents to the first respondent through proper channel, namely, through the third respondent. The third respondent is directed to forward the representation within ten days from the date of the receipt, to the second respondent, who in turn, shall forward the same with his recommendations/proposals to the first respondent within three weeks therefrom and the first respondent shall consider the representation on merits within a period of two months from the date of receipt of the proposals from the second respondent. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Pkn

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

1. The Director,
Department of Public Health and Preventive Medicine,
Chennai - 6.

2. The Deputy Director of Health Services,
Department of Public Health and Preventive Medicine,
Sivakasi, Virudhunagar District. .

3. The Medical Officer,
Primary Health Centre,
M.Pudhupatti,
Sivakasi Taluk,
Virudhunagar District.

+1 CC to M/s.N.GA.NATRAJ, Advocate (SR-16863[F] dated 21/04/2021)

+1 CC to M/s.SPL GP (SR-16918[F] dated 21/04/2021)

W.A. (MD) No.349 of 2018

20.04.2021

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