



WEB COPY

W.P.(MD).No.5813 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD).No.5813 of 2018

and

WMP(MD)No.5676 of 2018

P. Kousalya

... Petitioner

Vs.

The District Collector,
Collectorate Premises,
Sivaganga,
Sivagangai District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order of the respondent in Na.Ka.P3/13247/2017 dated 09.08.2017 and quash the same and consequently direct the respondent to provide compassionate appointment to the petitioner.

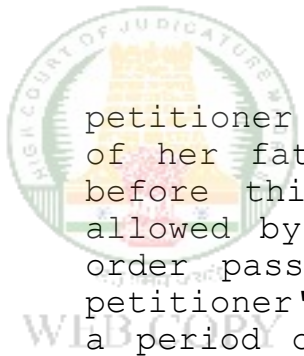
For Petitioner	:Mr. C.M. Arumugam
For Respondent	:Mr. A.K. Manikkam
	Standing Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 09.08.2017, passed by the respondent and to direct the respondent to consider the case of the petitioner for appointment on compassionate grounds.

2. The writ petitioner is the daughter of the deceased employee, late A.Pandi, who was serving as Junior Assistant in the office of the Assistant Director of District Rural (Audit) Development Office, Sivagangai. While her father was in service, he suddenly died on 24.06.2005. Pursuant to his death, the petitioner's mother has submitted an application on 06.03.2006, seeking to consider the petitioner for an appointment on compassionate grounds. Thereafter, the petitioner's mother has not insisted upon for the appointment. Thereafter on attaining majority, the petitioner made an application to the respondent to consider her for appointment on compassionate grounds. The said application was rejected by the respondent on 13.01.2015 on the ground that the

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petitioner did not apply within three years from the date of death of her father. Thereafter, the petitioner filed a Writ Petition before this Court, in W.P(MD).No.3354 of 2015 and the same was allowed by order dated 15.06.2017, by setting aside the aforesaid order passed by the respondent with a direction to consider the petitioner's application on merits and in accordance with law within a period of 6 weeks from the date of receipt of a copy of this order. Pursuant to the aforesaid order, the respondent once again rejected the application and passed the similar order without considering the case of the petitioner on merits. Hence, the writ petitioner has filed the present Writ Petition before this Court.

3. The learned Government Pleader for the department cannot have any justification to defend the case on the ground that the impugned order passed by the respondent is similar to the earlier order passed by the respondent dated 13.01.2015.

4. It is seen that both the parties do not dispute that the earlier order passed by the respondent in proceedings in Na.Ka.P3/11122/2014 dated 13.01.2015 was quashed by this Court and the respondent was to consider the application on merits and in accordance with law. Thereafter, the present impugned order was passed by the respondent. In the present impugned order, the respondent has not considered any concrete material to reject the claim of the petitioner and also no opportunity was granted to the petitioner for furnishing further information to the respondent. Insofar as the limitation is concerned, the respondent has not preferred any appeal against the order passed by this Court in W.P.No.3354 of 2015 dated 15.01.2016. , The said order has become final. Therefore, now the respondent cannot reject the matter on the ground of time barred. On the question of merit, the respondent has not considered the same in proper prospective.

5. On considering the above facts and circumstances of the case, there is no hesitation to set aside the order passed by the respondent and therefore the matter is remitted back to the respondent to consider afresh by providing an opportunity to the petitioner to furnish any additional materials to them and pass orders on merits and in accordance with law as expeditiously as possible within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to say that the respondent has to consider and pass orders in the light of the G.O.No.18 dated 23.01.2020, Labour and Employment Department.



6. In view of the above, the impugned order is quashed. Consequently, the writ petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

To

The District Collector,
Collectorate Premises,
Sivaganga,
Sivagangai District.

+1 CC to M/s.GP (SR-25382[F] dated 05/08/2021)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-25412[F] dated 05/08/2021)

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GS (18.08.2021) 3P 4C