



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.13626 of 2017

and

W.M.P (MD) .No.10656 of 2017

M.Thirumalai Kumari

... Petitioner

Vs.

1.The Commissioner,
HR & CE Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai.

2.The Joint Commissioner,
HR & CE Department,
Trivandrum Road,
Palayamkottai,
Tirunelveli-2.

3.The Assistant Commissioner,
A/m.Thirumalai Kumarasamy Temple,
Panpozhi, Shencottai Taluk,
Tirunelveli District.

... Respondents

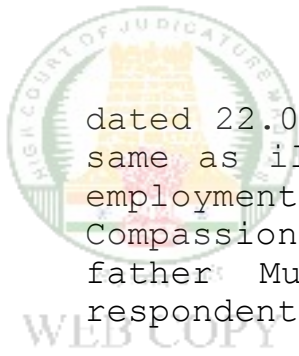
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in செ.மு.ந.க.எண் 17/2017 dated 22.02.2017 passed by the 3rd respondent and set-aside the same as illegal and consequently, direct the respondents to give employment to the petitioner in the 3rd respondent's Temple on Compassionate appointment upon the place of the petitioner's expired father Murugaiah, who died while in service in the 3rd respondent Temple.

For Petitioner	: Mr.N.Sankar Ganesh
For R1 & R2	: Mr.K.P.Narayanakumar Special Government Pleader
For R3	: Mr.S.Manohar Standing Counsel

O R D E R

This writ petition is filed by the petitioner, calling for the records pertaining to the impugned order in செ.மு.ந.க.எண் 17/2017

<https://hcservices.ecourts.gov.in/hcservices/>



dated 22.02.2017, passed by the third respondent and set-aside the same as illegal and consequently, direct the respondents to give employment to the petitioner in the third respondent's Temple on Compassionate ground upon the place of the petitioner's expired father Murugaiah, who died while in service in the third respondent Temple.

2.The case of the petitioner is that her father viz., S.Murugaiah, was working as Groove Watchman and died on 23.06.2002 in harness, leaving behind the petitioner and her mother viz., Poolammal as legal heirs. Immediately after the death of the petitioner's father, the respondent had appointed the petitioner's mother as Office Assistant. Against which, one Ayyadurai, who is working as Assistant in the said Temple, has filed a writ petition in W.P(MD)No.11095 of 2005 before this Court. This Court, by order dated 06.08.2010, has allowed the said writ petition and set aside the order of the first respondent and directed the second respondent therein to accommodate the petitioner's mother in any one of the post to her eligible qualification and even if there is no vacancies as on today, the third respondent may be accommodated in any of the future vacancies suitable to her educational qualifications. Pursuant to which, the appointment of the petitioner's mother was cancelled, on the ground that the petitioner's mother has not obtained the minimum qualification. Challenging the said order, the petitioner's mother has filed a writ petition in W.P.No.16022 of 2013 and the said writ petition was withdrawn on 20.07.2016. In the mean while, the petitioner has completed 10th standard and also obtained Diploma in Computer Applications(DCA). Further, the petitioner averred that her elder sister viz, Parashakthi got married and gave a consent letter for giving compassionate appointment to the petitioner. Therefore, the petitioner has made a representation to the respondents on 11.09.2015. Till date, the respondents have not take any action on the petitioner's representation. Therefore, the petitioner has filed a writ petition in W.P(MD).No.22157 of 2016 seeking appointment on compassionate grounds. The said writ petition was disposed of on 18.11.2016 and issued a direction to the third respondent therein to consider the petitioner's representation. Pursuant to which, the petitioner has made another representation dated 06.02.2017 to the respondents and the same was rejected by the third respondent stating that the petitioner got married and further stated that the petitioner's mother can be appointed on compassionate grounds in the post of Cleaner. Challenging the said rejection order, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that though the the third respondent has rejected the petitioner's application, he would be provided compassionate appointment to the petitioner's mother, to any one of the vacant post to her



educational qualification. Hence, this Court may issue a direction to the third respondent to provide compassionate appointment to the petitioner's mother within a reasonable time as fixed by this Court.

4.The learned Special Government Pleader appearing for the first and the second respondents has no serious objection.

5.The facts in the present case are not in dispute. Admittedly, after the death of the petitioner's father, her mother was appointed as Office Assistant in the third respondent Temple. The said appointment was cancelled, at the instance of one Ayyadurai, on the ground of lack of educational qualification. Subsequently, it appears that the petitioner has completed 10th standard and applied for the compassionate appointment. Even the petitioner is ready to accept the sweeper post, which would be provided in favour of her mother and the third respondent has also agreed to provide employment to the petitioner's mother in the impugned order. As per the Scheme, any one of the family members, who are eligible for compassionate appointment, even the married daughter also entitled for appointment. In the present case, the petitioner is the eligible person. Now, the third respondent is ready to provide employment to the petitioner's mother in the Sweeper post.

6.Considering the fact that now the petitioner's mother crossed the age of 50 years and it may not be appropriate to provide sweeper post to the petitioner's mother, it would be appropriate to provide the same post to the petitioner. Therefore, this Court directs the third respondent to provide compassionate appointment either to the petitioner's mother or to the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To

1.The Commissioner,
HR & CE Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
HR & CE Department,
Trivandrum Road,
Palayamkottai,
Tirunelveli-2.

+1 CC to MR.S.MANO HAR, Advocate (SR-1500[F] dated 21/01/2021)

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KM (09.03.2021) 4P 4C