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W.A(MD)No.743 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.743 of 2022
and C.M.P.(MD) No.6240 of 2022

- 1.The Secretary to Government,
Department of Health Services,
Chennai.
 - 2.The Director,
Director of Medical Services,
DMS Campus,
Teynampet,
Chennai.
 - 3.The Deputy Director of Health Services,
Health Service Department,
Sivagangai,
Sivagangai District.
- ... Appellants/Respondents

Vs.

- 1.M.K.Hemamalini
 - 2.The Director,
Public Health and Preventive Medicine,
359, Anna Salai, DMS Complex,
Teynampet,
Chennai – 600 006.
- (2nd Respondent suo motu impleaded
vide order of this Court dated
21.07.2022 by SSSRJ & SSYJ)
- ... 1st Respondent/Writ Petitioner
... 2nd Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 16.11.2021 in W.P(MD)No.17612 of 2018 and allow the Writ Appeal.



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W.A(MD)No.743 of 2022

For Appellants and 2nd : Mr.S.P.Maharajan,
Respondent Special Government Pleader

For Respondent : Mr.K.Mahendran

J U D G M E N T

(Judgment of the Court was delivered by S.S.SUNDAR,J.)

The writ appeal is directed against the order of the learned Single Judge, dated 16.11.2021, allowing the Writ Petition filed by the first respondent / writ petitioner in W.P(MD)No.17612 of 2018 for quashing the impugned order of the third appellant dated 23.10.2013 and to direct the appellants to appoint the first respondent in the appellants Department in a post suitable for the qualification of the first respondent.

2. Heard Mr.S.P.Maharajan, learned Special Government Pleader appearing for the appellants and Mr.K.Mahendran, learned counsel for the first respondent.

3. The first respondent's father died on 24.06.2011, while he was working as a driver in the Office of Deputy Director of Health Services, Health Service Department, Sivagangai, Sivagangai District. The first respondent being the daughter of the deceased, filed an application for compassionate appointment on 24.09.2013. The said application was returned by the third appellant on 23.12.2013 on the



ground that the first respondent being the married daughter of the deceased is not entitled to get compassionate appointment vide proceedings dated 23.10.2013. Challenging the same, the first respondent filed a writ petition. In the meanwhile, the appellants have considered the application filed by the first respondent / writ petitioner and admitted that the first respondent's name will be considered as per seniority. As on 11.03.2020, the first respondent was found in Sl.No.735 in the seniority list. The appellants have also filed a counter affidavit admitting that the seniority of the first respondent is 635. Pointing the mistake, the appellants have also filed a review application, which was also dismissed by the learned Single Judge.

4. The short point canvassed by the learned Special Government Pleader is that as per the order of the learned Single Judge, the appellants are supposed to provide employment to the first respondent within eight weeks from the date of receipt of a copy of that order. Further, it is also submitted that the power to consider the application for appointment on compassionate ground in respect the first respondent is vested with the Director of Public Health and Preventive Medicine. Hence, he submitted that after referring to the seniority list appropriate direction may be given to the Director of Public Health Preventive Medicine.



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5. Considering the grievance of the appellants, this Court is of the view that the direction issued to the appellants is not proper and time limit cannot be fixed when the first respondent / writ petitioner is entitled to get the appointment on compassionate ground on the basis of the seniority maintained by the appellants. Therefore, this Court, *suo motu* impleads "The Director, Public Health and Preventive Medicine, 359, Anna Salai, DMS Complex, Teynampet, Chennai – 600 006" as the second respondent in the writ appeal. Mr.S.P.Maharajan, learned Special Government Pleader takes notice on behalf of the second respondent.

6. The Writ Appeal is allowed partly and the order of the learned Single Judge is modified in the following lines:-

The direction in para 3 of the order of the learned Single Judge dated 16.11.2021, is modified and the second respondent, namely, Director of Public Health and Preventive Medicine is directed to consider the candidature of the first respondent / writ petitioner in the order of seniority and it is made clear that every effort should be made to update the seniority list and the copy of the seniority list shall be furnished by the second respondent to the first respondent once in three months. Considering the fact that the first respondent is waiting for appointment for more than nine years, the case of the first respondent may be considered, so as to provide her employment, as expeditiously as



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possible. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J] [S.S.Y.,J.]
21.07.2022

Index :Yes/No

Internet :Yes/No

sj

To

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S.S.SUNDAR,J.
and
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