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W.P.No.20307 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15..09..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.20307 of 2023

and

W.M.P.No.19668 of 2023

R.Indra

..... Petitioner

-Versus-

1.The District Collector,
Nilgiris District.

2.The Chief Engineer,
Highways Department (Construction & Maintenance),
Guindy, Chennai 600 025.

3.The Divisional Engineer,
Highways Department (Construction & Maintenance),
The Nilgiris District.

4.The Assistant Engineer,
Highways Department,
Gudalur, The Nilgiris District.

..... Respondent

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent in Na.Ka.No.537/2018/B1, dated 21.06.2018, served on 01.12.2022 and the consequential order vide Na.Ka.No.134/2021 referred in page No.24 of the typed set of papers and to quash the same and direct the 3rd respondent to



W.P.No.20307 of 2023

provide suitable appointment to the petitioner on compassionate grounds.

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For Petitioner : Mr.S.N.Ravichandran

*For Respondent (s) : Mr.P.Baladhandayutham,
Special Government Pleader
for RR1 t 4*

ORDER

This writ petition challenges the order dated 21.06.2018 passed by the 3rd respondent rejecting the request of the petitioner for appointment on compassionate ground on the ground of limitation and returning the application of the petitioner dated 13.04.2018.

2. The background of the facts which led to the filing of the present writ petition in brief is: The petitioner is the daughter of deceased government employee B.Rajendran and Tmt.Saraswathi. She was born on 07.10.1997. While her father was alive, the mother of the petitioner died on 25.05.1998 and the deceased father of the petitioner got married one Bindu on 23.01.2000. The deceased was working as Gang Mazdoor in the Highways Department. He died in a road accident on 12.01.2009 while he was in service, leaving behind his second wife-Bindu, son – Karthik, daughter- Anitha, (both were born through Bindu), grand father – Balakrishnan, grandmother-Rajammal and her (Indira, the petitioner herein born through late Saraswathy, the 1st wife of the deceased



W.P.No.20307 of 2023

government employee). The deceased was the only breadwinner in the family

and upon his demise, the family went into the state of absolute impoverishment. Hence, the stepmother of the petitioner submitted an application for appointment on compassionate ground in time on 30.01.2009.

The petitioner was minor at the time of death of his father. However, due to misunderstandings between the grandmother and the step mother of the petitioners which led to the filing of a civil suit and as such there was a delay in pursuing the application for appointment on compassionate ground. Pending suit, the step mother on her part submitted an application for appointment on compassionate ground. The petitioner was all along under the care and custody of her grand mother. Thereafter, it appears that the step mother of the petitioner had agreed to give her no objection for giving appointment to the petitioner on compassionate ground since she had attained majority. The petitioner is a graduate in science. The petitioner made an application seeking appointment on compassionate ground. There was also an agreement entered entered into between the petitioner and her step mother to share the terminal benefits of the deceased government employee. However, the application of the petitioner for appointment on compassionate ground was rejected on the ground that application was submitted after the period of limitation of three years from the



W.P.No.20307 of 2023

date of death of the government servant.

WEB COPY 3. Heard both sides.

4. The very object of compassionate appointment is to redress the family out of financial adversity due to the sudden loss of the government employee. The petitioner was admittedly minor at the time of death of the government servant. She was stated to be maintained by her grandparents. The step mother of the petitioner filed the application in time in sense within the period of three years from the date of death the government servant. It appears that the application of the stepmother of the petitioner was not considered by the authorities. On attaining the majority the petitioner approached the authorities on 10.04.2018 by way of representation seeking appointment on compassionate ground. The application of the step mother dated 30.01.2009 and representation dated 01.05.2012 were not considered. Though the step mother submitted her application for appointment on compassionate ground, subsequently, the step mother had expressly given her no objection in providing appointment to the petitioner on compassionate ground in sense she had withdrawn her request made through application dated 12.01.2009 seeking appointment on compassionate ground. Therefore, the authorities cannot say that the application of the petitioner for appointment on compassionate ground was



W.P.No.20307 of 2023

time barred and it was in continuation of the application said to have been made by the stepmother and the representation of the step mother of the petitioner. Thus, the impugned orders are not sustainable on facts and in law. It is for the authorities to consider the case of the petitioner sympathetically in accordance with law and accommodate her in any one of the suitable post. Though the application of the petitioner is dated 11.04.2018, since her step mother's application dated 30.01.2009 in this regard was already considered and returned by the authorities for curing certain defects, the application of the petitioner shall be considered in the order of priority in appointment as directed in G.O.(Ms) No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023. It is made clear that if the petitioner is given appointment on compassionate ground, she will not be entitled to claim seniority over the applicants who have already been appointed in the order of priority in appointment in the order of the date of death of the government servant. The writ petition succeeds accordingly.

5. At this juncture, the learned counsel for the petitioner submitted that terminal benefits payable on account of the death of the father of the petitioner have not been settled so far. In reply to the above, the learned Special Government Pleader, on instructions, submitted that orders in this regard have



W.P.No.20307 of 2023

been passed on 12.07.2023. The said statement is recorded. Orders with regard to the disbursement of terminal benefits shall be given effect within a period of three months.

In the result, the writ petition is allowed. The impugned order is set aside. The matter is remitted back to the 3rd respondent who shall consider the application of the petitioner for appointment on compassionate ground without referring to the limitation and provide appointment to her in any suitable post based on her educational qualification, if she is otherwise eligible. The said exercise shall be completed within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected WMP is closed.

15..09..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

- 1.The District Collector, The Nilgiris District.
- 2.The Chief Engineer, Highways Department (Construction & Maintenance), Guindy, Chennai 600 025.
- 3.The Divisional Engineer, Highways Department (Construction & Maintenance), The Nilgiris District.



W.P.No.20307 of 2023

4.The Assistant Engineer, Highways Department,Gudalur, Nilgiris District.

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W.P.No.20307 of 2023

N.SATHISH KUMAR.J.,

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W.P.No.20307 of 2023

15..09..2023