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W.P.No.25423 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:22.06.2023

Delivered on: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.25423 of 2019

S.Indu Priya

... Petitioner

Vs.

1.The Director of School Education
DPI Compound, College Road
Chennai

2.The District Elementary Educational Officer
Vellore

3.The District Educational Officer
Arakkonam, Vellore District

4.The Block Educational Officer
Kaveripakkam
Vellore District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the entire



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records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.3775/A1/2016, dated 23.02.2017 and quash the same and consequently direct the respondents to provide suitable employment to the petitioner on compassionate grounds.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.R.Neelakandan, AAG, assisted by
Mr.T.M.Rajangam, Govt.Advocate

ORDER

The petitioner seeks issuance of a Writ of Certiorarified Mandamus to quash the order of the 2nd respondent and consequently direct the respondents to provide employment to the petitioner on compassionate grounds.

2. The case of the petitioner is that her mother was working as a Secondary Grade Teacher in the Primary School at Rangapuram, Kaveripakkam Union, Vellore District. She died on 09.05.2006, while she was in service. At the time of her mother's death, the petitioner was a minor aged 14 years. Her father being an alcohol addict, did not take care of the family and her father unfortunately managed to take away all the terminal



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benefits and pensionary benefits after the death of her mother and also got remarried and never took care of the petitioner. The petitioner was under the care and custody of her maternal grand parents. The petitioner further states that she was forced to file a maintenance case against her father in M.C.No.7 of 2007, through her grandfather as guardian. Though a sum of Rs.1,500/- per month was ordered to be paid, her father filed a criminal review petition before the District Court and the same was also dismissed. In order to receive the monies due and payable to her, the petitioner filed suit as a pauper, in O.S.No.157 of 2009, to claim her half share in the terminal benefits and pension. The suit also came to be decreed on 23.08.2010. With great difficulty, her grandfather paid Court fee also, despite not having got any monetary benefits from her father. After the petitioner attained the age of 18, her grandfather made a representation on 08.07.2011 to the 2nd respondent, requesting compliance of the decree in O.S.No.157 of 2009 and also additionally for compassionate appointment. It was brought to the notice of the petitioner's grandfather that the petitioner's father had also claimed compassionate appointment. However, he died on 15.06.2013. Since there



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was no action on the side of the respondents, the petitioner made another representation on 16.09.2016, which came to be rejected in and by order dated 23.02.2017 on the ground that the application was belated and made after a lapse of 10 years.

3. The petitioner challenges the impugned order on several grounds raised in the affidavit in support of the Writ Petition. The respondents have filed counter stating that the petitioner's application is belated and as per the scheme for compassionate appointment, the application not being submitted within three years could not be considered.

4. Heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.R.Neelakandan, Additional Advocate General, assisted by Mr.T.M.Rajangam, Govt.Advocate for the respondents.

5. At the outset, it is seen that the petitioner made her first application on 08.07.2011 as soon as she attained the age of majority. The said



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representation was not considered until the petitioner gave another representation on 16.09.2016. The counsel for the petitioner would rely on several judgments of this Court to drive home the point that in a case of minor seeking compassionate appointment, the application ought to have been made within three years from the date of the minor attaining majority.

6. Per contra, learned Additional Advocate General would contend that this Court had also taken a view that the question of minority cannot be set up as a defence for to not making an application within three years and if the application is beyond three years, the same cannot be entertained.

7. This Court however deems it fit to take a liberal and sympathetic approach in the matter, especially considering the peculiar facts of the case. The petitioner lost her mother when she was a minor and her father abandoned her. She was brought up by her maternal grandparents with great difficulty and even the terminal benefits and pensionary benefits were taken away by her father who even chose to remarry. In such a pitiable situation,



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the petitioner was forced to file a suit to claim her 50% share of the terminal benefits as a pauper and she also had to make up the Court fee subsequent to the decree passed in her favour.

8. The Government has power to relax the rules in exceptional cases and it is not as if the Government has no power to do so. It is only the policy decision of the Government which is reflected in the scheme to not permit applications made beyond three years from the date of death of Government servant. In cases where there are absolute bonafides in a person not being able to file an application within three years and the case for compassionate appointment is quite strong, the respondents have to adopt a liberal approach and not stand on technicalities. As already discussed herein above, the petitioner has been left in the lurch by her own father and aged grandparents have been looking after her. It is a case where the petitioner certainly deserves to be considered for compassionate appointment, atleast on humanitarian grounds.



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9. Considering the trajectory of the case and the fact that the petitioner came made her first application way back on 08.07.2011, the respondents are therefore directed to pass final orders on the petitioner's request for compassionate appointment following the directions given herein above, within a period of six weeks from the date of receipt of a copy of this order.

Writ petition is allowed. No costs.

14.07.2023.

Internet: Yes

Index: Yes/No

Neutral Citation: Yes/No

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P.B.BALAJI, J.,
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Pre-delivery order in
W.P.No.25423 of 2019

14 .07.2023