



W.P.No.12580 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.B.BALAJI**

W.P.No.12580 of 2017
and W.M.P.No.13380 of 2017

V.Deivakumari

...Petitioner

-Vs-

1. The State of Tamilnadu,
Rep by the Secretary to the Government,
Social Welfare and Nutritious Programme,
(NMP-I) Department,
Fort St. George,
Chennai – 9.

2. The District Collector,
Vellore District.

3. The Personal Assistant to the Collector,
Noon Meal Scheme,
Vellore District.

4. The Commissioner/
Block Development Officer,
Gudiyattam Panchayat Union,
Vellore District.

5. The Secretary,
Suriyothaya Aided Primary School,
Kondasamuthiram,
Gudiyattam,
Vellore District.

... Respondents



W.P.No.12580 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second and third respondent to appoint the petitioner as Cook Assistant on compassionate ground in the fifth respondent school, in the light of the order passed in W.P.No.43353 of 2006 dated 01.04.2009.

For Petitioner : Mr.S.N.Ravichandran
For Respondents
For R1 to R3 : Mrs.Meera Arumugam
Additional Government Pleader
For R4 : Mr.A.Zakirhussain
For R5 : No appearance

ORDER

The petitioner seeks issuance of a Writ of Mandamus directing the second and third respondents to appoint her as Cook Assistant on compassionate ground in the fifth respondent school.

2. The facts set out by the writ petitioner in support of this Writ Petition by way of affidavit are that her mother viz., Saroja was employed as Cook Assistant in the fifth respondent school right from 1982. The said school is an aided school and after 28 years of service, the petitioner's mother died on 24.01.2010. The petitioner further stated that her mother was the only bread winner of her family and after her death, the petitioner made a request to the fifth respondent to appoint her as



W.P.No.12580 of 2017

Cook Assistant on compassionate ground. In fact, the petitioner was appointed on temporary basis in the fifth respondent school.

3. Thereafter, the petitioner made a representation on 23.02.2010 to the second respondent seeking regularization of her serviced as Cook Assistant. Since there was no response to the said representation, the petitioner made a further representation on 29.05.2012 to the fourth respondent, again seeking regularization of her services as Cook Assistant in the fifth respondent school on compassionate ground.

4. In the mean time, there was a notification issued by the second respondent on 20.01.2014 with regard to filling up the post of Cook Assistant. The petitioner was called for interview on her application and the fifth respondent also recommended her to be appointed as Cook Assistant. However, despite all these developments and the representation given by the writ petitioner, no order of appointment was issued in favour of the writ petitioner. Citing all these grievances, the petitioner seeks issuance of a Writ of Mandamus.



W.P.No.12580 of 2017

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5. The third respondent, on behalf of the first and second respondents has filed a counter affidavit stating that the petitioner's mother died while she was in service. However, according to the respondents, the petitioner did not give any application to the fourth respondent seeking appointment on compassionate grounds within a period of three years from the date of the death of her mother. More over, the petitioner has crossed the age 40 which is the prescribed qualification for the post of Cook Assistant. Citing these two reasons, the respondents sought for dismissal of the Writ Petition.

6. Heard Mr.S.N.Ravichandran, learned counsel appearing for the petitioner, Mrs.Meera Arumugam, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.A.Zakirhussain, learned counsel appearing for the fourth respondent and considered their rival submissions.

7. Though the respondents have taken a specific stand in their counter affidavit that the petitioner did not make any application within a



W.P.No.12580 of 2017

period of three years from the date of the demise of her mother, it is seen from the materials on record that soon after her mother's death in January, 2010, the petitioner has sought for appointment on compassionate ground, even in February, 2010 and followed up the same subsequently by a further representation dated 29.05.2012. More over, it is also seen that the petitioner was also called for an interview for filling up the vacant post of Cook Assistant and she was also recommended. Further, the fifth respondent school themselves have recommended for appointing the writ petitioner and also sent a representation to the second respondent on 21.03.2017 in this regard.

8. In such view of the matter, the technical reason, though does not appear to be factually correct also cannot be put against the writ petitioner, for denying her appointment. Therefore, it is just and proper for the first respondent to consider the petitioner's representations starting from 23.02.2010, 29.05.20212 and finally on 21.03.2017 and pass orders on merits and in accordance with law. It is made clear that the first respondent shall not cite delay, passage of time and age against the petitioner and her representation shall be considered on the basis of



W.P.No.12580 of 2017

the recommendation made by the fifth respondent. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

13.06.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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W.P.No.12580 of 2017

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