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W.P.No.15504 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.15504 of 2017

R.Padmavathy

.. Petitioner

Versus

1. Director General of Police,
Mylapore, Chennai - 600 004.

2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.Ka.A.Pa.Ni./248/64908/2016 dated 11.01.2017 issued by the 2nd respondent and quash the same, direct the respondents to consider and pass order on the application dated 07.12.2005.

For Petitioner : M/s.S.Patrick
for Mr.K.R.Gunashekar

For Respondents : Mr.S.Ravi Kumar,
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the order, dated 11.01.2017 issued by



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the second respondent, the Commissioner of Police, Greater Chennai in Na.Ka.No.Ka.A.Pa.Ni./248/64908/2016 and to direct the respondents to consider and pass orders on the application, dated 07.12.2005, by which application, the petitioner sought employment on compassionate basis consequent to the death of her father who died on 04.08.1996.

2. The father of the petitioner, K.Ramesh, was serving as Police Constable Grade II (No.10592) from the year 1986 and was attached to the 29th Platoon, Armed Reserve Police, Chennai City Police. He had been removed from the service with effect from 06.12.1994 treating him as having deserted the force. Disciplinary proceedings had been initiated against him by the second respondent / the Commissioner of Police by proceedings in P.R.No.128/PRI (2)/94, dated 06.12.1994 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1995 for unauthorised absence of more than 21 days from 30.07.1994.

3. The father of the petitioner had challenged such initiation of disciplinary proceedings and action taken consequent to that by filing



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O.A.No.6462 of 1995 before the Tamil Nadu Administrative Tribunal at Chennai.

4. Pending the said proceedings, the father of the petitioner died on 04.08.1996. Subsequently, the mother of the petitioner, R.Indira, was impleaded as a party and finally, by order dated 16.04.2004, the order of removal from service of the father was set aside. The father died in the year 1996 during when he was suffering the order of dismissal from service and when such dismissal was under consideration of the Administrative Tribunal at Chennai.

5. The Administrative Tribunal could have upheld the dismissal or could have set aside the dismissal. Therefore, till the proceedings were completed by the Administrative Tribunal which was completed by judgment, dated 16.04.2004, the dependents of K.Ramesh / father of the petitioner, could never have applied, seeking compassionate appointment. Even if they had applied, it would have been summarily rejected by the respondents who could have justified rejection since the father had been



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dismissed from the service and the application seeking reconsideration of the same was pending before the Administrative Tribunal.

6. As stated, the Administrative Tribunal passed final judgment on 16.04.2004.

7. Thereafter, an application, dated 07.12.2005 was filed seeking compassionate employment. The rules stipulate that such application should be made within a period of three years from the date of death. But, in this case, it was not possible because on the date of death, the father of the petitioner was deemed to be dismissed from the service which was pending reconsideration or pending challenge before the Administrative Tribunal. Therefore, the effective date, from which, such an application could be made, would be only from the date of the judgment of the Administrative Tribunal namely, 16.04.2004. I hold that the petitioner had, therefore, applied for employment within the period of three years.

8. In two separate communications dated 31.03.2009 in Na.Ka.No.K.A.Pa.Ni.1/478/110747/2005 and another communication, dated



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15.07.2011 in Na.Ka.No.K.A.Pa.Ni.478/110747/2005 both issued by the Commissioner of Police, Chennai, this fact had been examined and the possibility of giving a representation only after final judgment had been passed by the Tribunal had been recognised.

9. The learned Special Government Pleader, however, drew notice to the provisions of the Government Order namely, G.O.Ms.No.155 Labour and Employment (Q1) Department issued in the year 2010 which stipulates that any application for compassionate employment should be given within a period of three years from the date of death. The learned Special Government Pleader stated that even if the matter has been pending before the Administrative Tribunal, still, an application atleast should have been made within a period of three years by the petitioner or by her mother.

10. In the impugned order, which had rejected the application, the stand taken is that the father of the petitioner had died on 04.08.1996 and after a period of 9 years, the application had been given in the year 2007. But, however, in view of the fact that the Administrative Tribunal had



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passed the order only in the year 2004, I hold that he application is well within the time.

11. The learned Special Government Pleader further pointed out that the age of the petitioner was also less than 18 years. But, once again the entire issue will have to be reconsidered only by the respondents in accordance with aforementioned Government Order and subsequent Government Orders, if issued.

12. In view of these facts, I would allow the Writ Petition and set aside the impugned order and place a further direction on the second respondent to consider the application, dated 07.12.2005 given by the petitioner herein and examine the rules and regulations governing service and governing provision of employment under compassionate grounds and provide necessary employment to the petitioner herein in accordance with her qualification. The entire exercise must be completed within a period of 16 weeks from the date of receipt of a copy of this order. If any clarifications are required, notice may be issued to the petitioner regarding those clarifications.



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13. The Writ Petition stands allowed. No costs.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs



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To
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1. The Director General of Police,
Mylapore, Chennai - 600 004.
2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai - 600 007.



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C.V.KARTHIKEYAN, J.

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