



W.P.(MD).No.6458 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 06.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6458 of 2021
and
W.M.P(MD)No.5052 of 2021

Aravalli,
D/o.Late.Chinnakannu,
W/o.Murugan,
Thottatchiamman Colony,
Vendhoni Village,
Paramakudi Taluk,
Ramanathapuram District.

... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Commissioner of Municipal Administration,
M.R.C Nagar,
Santhom High Road,
Chennai – 600 028.

2.The Regional Director of Municipal Administration,
No.294, Melakal Pradana Salai,
Kochadai,
Madurai – 625 014.

3.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

... Respondents



W.P.(MD).No.6458 of 2021

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order made in Na.Ka.No.5749/2019/A2, dated 13.03.2020 issued by the second respondent and quash the same and consequently direct the respondents to provide suitable employment to the petitioner on compassionate ground in accordance with law.

For Petitioner	: Mr.P.R.Prithviraj
For RR 1 & 2	: Mr.N.Muthu Vijayan Special Government Pleader
For R – 3	: Mr.M.Kannan

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order made in Na.Ka.No.5749/2019/A2, dated 13.03.2020 issued by the second respondent and consequently to direct the respondents to provide suitable employment to the petitioner on compassionate ground in accordance with law.

2.The petitioner's father was working as a scavenger in the third respondent office. While in service, he died on 09.06.2015 due to Cardio Respiratory Arrest. On the date of the death of the petitioner's



W.P.(MD).No.6458 of 2021

father/employee of the third respondent, the petitioner was a minor. However, on 05.10.2015, an application seeking employment on compassionate grounds was made by the petitioner's mother on behalf of the petitioner. The third respondent vide their communication, dated 10.12.2015, communicated that the petitioner had not completed the age of 18 years and directed the petitioner to submit necessary documents after completion of the age of 18 years and thereafter, the request for appointment on compassionate grounds would be considered. The petitioner attained the age of majority on 29.06.2017. Hence, when the petitioner approached the third respondent and submitted the particulars, the third respondent ensured the processing of her earlier application and in view of the same on 19.11.2019, the petitioner received a communication sent by the third respondent forwarding the petitioner's application seeking compassionate appointment to the first respondent. Thereafter, on the basis of which, the impugned order came to be passed by the second respondent on 13.03.2020, rejecting the application of the petitioner seeking compassionate appointment by relying upon G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, that the petitioner was a minor on the date of application, dated 05.10.2015 and she was only 16 years 3 months and 7 days.



W.P.(MD).No.6458 of 2021

3.Heard Mr.P.R.Prithviraj, learned counsel appearing for the petitioner, Mr.N.Muthu Vijayan, learned counsel appearing for the respondents 1 and 2 and Mr.M.Kannan, learned counsel appearing for the third respondent and perused the materials available on record.

4.On perusal of the records it came clear that the petitioner had made an application even before attaining the age of majority when she was only 16 years 3 months and 7 days. In view of the mandates of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, as far as the age limit for those eligible under compassionate ground appointment is concerned, the minimum age should be 18 years at the time of submitting an application for compassionate ground appointment. However, the learned counsel appearing for the petitioner insisted for the grant of appointment by compassionate appointment insisting on the latest Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023 wherein the minimum age has been relaxed. But this has been clearly settled by the Honourable Supreme Court of India in ***Civil Appeal No.7752 of 2021 (The Secretary to Government Department of Education (Primary) and others Vs. Bheemesh Alias Bheemappa)***, wherein the Honourable Apex Court has held that



W.P.(MD).No.6458 of 2021

whenever the benefits under an existing scheme were enlarged by a modified scheme after the death of the employee, the Court shall apply only the scheme that was in force on the date of death of the employee.

5.In view of the said observation of the Honourable Apex Court, the hands of this Court are tied to enlarge the scope of the application for the compassionate appointment which has been made by the petitioner, making it possible for him to avail the enlarged benefit of the modified scheme. Hence, in view of the old scheme mandated in G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, this Court is inclined to dismiss the Writ Petition.

6.Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes
ps



WEB COPY



W.P.(MD).No.6458 of 2021

To

- 1.The Commissioner of Municipal Administration,
Commissioner of Municipal Administration,
M.R.C Nagar,
Santhom High Road,
Chennai – 600 028.
- 2.The Regional Director of Municipal Administration,
No.294, Melakal Pradana Salai,
Kochadai,
Madurai – 625 014.
- 3.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.



WEB COPY



W.P.(MD).No.6458 of 2021

L.VICTORIA GOWRI, J.

ps

W.P.(MD)No.6458 of 2021

06.07.2023