



W.P.(MD).No.17092 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17092 of 2023

J.Nivetha

... Petitioner

Vs.

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

2.The Superintendent of Police,
Theni District,
Theni.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to provide any suitable post on the basis of petitioner's educational qualification on compassionate grounds on account of the death of her father namely Jothi, S/o.M.Kamaiasamy employed as Grade - I Police Constable No.1291 on the basis of the petitioner's mother's representation, dated 01.03.2011.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader



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ORDER

The present writ petition has been filed seeking direction to the respondents to provide any suitable post on the basis of petitioner's educational qualification on compassionate grounds on account of the death of her father namely Jothi, S/o.M.Kamaiasamy employed as Grade - I Police Constable No. 1291 on the basis of the petitioner's mother's representation, dated 01.03.2011.

2. Heard the learned Counsel for the petitioner and the learned Special Government Pleader for the respondents and carefully perused the materials available on record.

3. The petitioner's father one Jothi son of Kamaiasamy joined as Secondary Grade Police Constable in the Tamil Nadu Police Department. While in service, un-expectedly, he died on 04.03.2008. He was survived by the petitioner, his mother and one petitioner's brother. At the time of death of the petitioner's father, the petitioner was 15 years old and his brother was 11 years old. The petitioner's mother made an application seeking appointment on compassionate ground to the respondent authorities. However, the same was



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rejected on 13.06.2010 on the ground that the petitioner did not attain the age of majority. Thereafter, the petitioner's mother once again submitted another application on 01.03.2011 to the second respondent, requesting to provide the petitioner with a suitable employment on compassionate ground and the same is pending before the authorities for consideration.

4. The learned Special Government Pleader for the respondents has filed counter and submitted that the petitioner on the date of application is 17 years, 11 months and 1 day old and hence, she is not entitled to appointment on compassionate ground on the basis of G.O(Ms)No.18 of the Labour and Employment (Q1) Department, dated 23.01.2020, which mandates that an applicant, who is seeking compassionate appointment should be a major at the time of making the said application and moreover, after a lapse of 15 years from the date of death of the deceased employee, it would not be possible to consider the application made by the petitioner.

5. However, this Court is inclined to rely upon the orders passed by this Court in W.P.No.31399 of 2014, dated 05.01.2021 wherein, the petitioner was at the age of 17 years at the time of considering the application by the



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respondents. This Court in the said case has directed the respondents to consider the petitioner's application positively and quashed the impugned order passed by the respondents thereat. The Hon'ble Division Bench of this Court in W.P.No.28945 of 2019, dated 25.11.2019, in a similar case, where the applicant was 17 years, 6 months old, has passed an order to grant compassionate appointment to the applicant. Even in this case, the application seeking compassionate appointment has been made well within a period of three years from the date of death of the employee (i.e.,) on 01.03.2011. However, the respondents with much callousness has not considered the same even after a period of 15 years from the date of making the said application and the petitioner, who was 17 years, 11 months and 1 day old at the time of making the said application. Despite the same, the application remains un-considered.

6. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would



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amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

7. Hence, this Court is inclined to consider this case as the special case in the line of the orders passed by this Court in W.P.No.31399 of 2014 on 05.01.2021 and W.P.No.28945 of 2019, dated 25.11.2019 and thereafter, direct the respondents to consider the representation made by the petitioner on 01.03.2011 and provide her with an appointment order and accommodate her in any suitable post on the basis of her educational qualification on compassionate ground within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. This writ petition stands allowed, accordingly. There shall be no order as to costs.

02.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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L.VICTORIA GOWRI, J.

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To

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

2.The Superintendent of Police,
Theni District,
Theni.

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