



W.P.(MD).No.16692 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 18.08.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD).No.16692 of 2023**

C.Jothy Shree

... Petitioner

Vs.

1.The Deputy Secretary to Government,  
Labour and Employment Department,  
Secretariat,  
Fort st.George,  
Chennai-600 009.

2.The Commissioner,  
Madurai Corporation,  
Madurai-20.

3.The Educational Officer,  
Madurai Corporation,  
Madurai-20.

... 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 appoint the petitioner on compassionate ground in any suitable post commensurate with the qualification possessed by the petitioner with all monetary and service benefits based on the petitioner's representation, dated 19.12.2011 and 01.02.2021.



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For Petitioner : Mr.S.Muthu Malai Raja  
For R1 : Mr.N.Ramesh Arumugam  
Government Advocate  
For R2 & R3 : M/s.S.Devasena

### **ORDER**

The present writ petition has been filed seeking direction to the respondents to appoint the petitioner on compassionate ground in any suitable post commensurate with the qualification possessed by the petitioner with all monetary and service benefits based on the petitioner's representation, dated 19.12.2011 and 01.02.2021.

2. The petitioner's mother one R.Shanthi has worked as Post Graduate Teacher in E.V.R.Nagammaiyyar Girls Higher Secondary School, Madurai Corporation. While she was in service, she died on 22.09.2011. The petitioner made an application on 19.12.2011 to the 3<sup>rd</sup> respondent seeking appointment on compassionate ground. The 3<sup>rd</sup> respondent required the petitioner to produce certain necessary documents vide letter, dated 20.12.2011. The petitioner duly submitted all the necessary certificates before the 3<sup>rd</sup> respondent. However, the



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petitioner's application was not considered. Hence, the petitioner made another representation to the 3<sup>rd</sup> respondent on 03.12.2019 seeking for appointment on compassionate ground on the basis of her application made as early as on 19.12.2011. Responding to the same, the 3<sup>rd</sup> respondent had sent a letter to the petitioner, dated 21.12.2020 seeking certain clarification. On 01.12.2021, the petitioner sent a detailed explanation along with all necessary documents and combined certificate of the concerned Tahsildar as required by the respondent. Even after submission of the same, there is no response from the 3<sup>rd</sup> respondent. Hence, this writ petition came to be filed.

3. The learned counsel for the 3<sup>rd</sup> respondent submitted that though the petitioner had submitted the application on 19.12.2011, she did not press upon the same for a prolonged period till 03.12.2019. That apart, the family of the petitioner is no more in penury and hence, the application seeking compassionate appointment cannot be considered on the basis of G.O.Ms.No. 18, Labour and Employment (Q1) Department, dated 23.01.2020.

4. This Court is of the considered view that the application seeking compassionate appointment was made within a period of 3 years from the date



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of death of the employee. The petitioner's mother died on 22.09.2011 and the application seeking compassionate appointment was submitted on 19.12.2011 that is well within 3 months from the date of death of the deceased employee.

5. 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 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.

6. Only because the 3<sup>rd</sup> respondent failed to consider the petitioner's application seeking compassionate appointment as early as in the year 2011, the petitioner had submitted a reminder representation on 03.12.2019. The respondents have kept the petitioner's application without consideration for a prolonged period of more than 9 years.



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7. In view of the same, this Court directs the 2<sup>nd</sup> respondent to immediately consider the petitioner's application, dated 19.12.2011 and the representation, dated 01.02.2021 and suitably give appointment order to the petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of the order.

8. Accordingly, this Writ Petition stands disposed of. No costs.

**18.08.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
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To

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2.The Commissioner,  
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3.The Educational Officer,  
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**L.VICTORIA GOWRI, J.**

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