



W.P.(MD).No.23814 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23814 of 2023

and

W.M.P(MD)No.19989 of 2023

P.Nirmala

... Petitioner

Vs.

- 1.The Director of School Education,
Office of the Director of School Education,
DPI Complex,
Nungambakkam,
Chennai.
- 2.The Chief Educational Officer,
Office of the Chief Educational Office,
Kanyakumari District.
- 3.The District Educational Officer (Secondary),
Office of the District Educational Officer,
Thiruvattar,
Kanyakumari District.
- 4.The Correspondent,
Abraham Memorial Higher Secondary School,
Maruthancode,
Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to approve the appointment of the petitioner on compassionate ground with effect from 03.09.2019 as Record Clerk or any of the post commensurate with the petitioner's qualification and to disburse the salary and other service benefits along with accrued interest thereon and by considering the petitioner's representation, dated 18.10.2019.

For Petitioner : Mr.S.Mohamed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the second respondent to approve the appointment of the petitioner on compassionate ground with effect from 03.09.2019 as Record Clerk or any of the post commensurate with the petitioner's qualification and to disburse the salary and other service benefits along with accrued interest thereon and by considering the petitioner's representation, dated 18.10.2019.



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2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner's husband died on 21.04.2019 while he was serving in the fourth respondent School. By the strength of G.O(Ms)No.2318 of the Department of Education, Science and Technology, dated 17.12.1983, the petitioner was appointed on compassionate ground in the fourth respondent School as Record Clerk on 03.06.2019. Thereafter, the fourth respondent School had sent a proposal to the second respondent on 05.08.2019 seeking to approve the petitioner's appointment as Record Clerk. However, the same was not acted upon and hence, the petitioner preferred representations on 15.07.2019 and 18.10.2019 seeking to approve the petitioner's appointment and disburse her with grant-in-aid salary. However, the third respondent had returned the same on 30.09.2019, on the ground that the staff fixation for the year 2018-2019 for the post of Record Clerk has been averred as surplus and hence, the post of Record Clerk on compassionate ground cannot be approved. Thereafter, the fourth respondent had sent another representation on 25.01.2020, seeking to approve the petitioner's appointment in view of the



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relevant Government orders. However, the same was not considered. Hence, this writ petition came to be filed.

4. 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 respondents 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 by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

5. In view of the same, this Court hereby direct the second respondent to consider the petitioner's representation, dated 18.10.2019 and forthwith approve the appointment of the petitioner as Record Clerk, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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6. This writ petition stands allowed, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

29.09.2023

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

To

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L.VICTORIA GOWRI, J.

BTR

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