



W.A.No.741 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.03.2024

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.741 of 2024
AND
C.M.P.No.4983 of 2024

1.The Director of School Education
DPI Compound, College Road
Chennai

2.The District Elementary Educational Officer
Vellore District

3.The District Educational Officer
Arakkonam, Vellore District

4.The Block Educational Officer
Kaveripakkam, Vellore District

.. Appellants

Vs.

S.Indupriya

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 14.07.2023 passed in W.P.No.25423 of 2019.



WEB COPY



W.A.No.741 of 2024

For Appellants : Mr.UM.Ravichandran
Special Government Pleader

For Respondent : Mr.S.N.Ravichandran

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

This intra-court appeal has been filed by the appellant authorities, challenging the order dated 14.07.2023 passed by the learned Judge in W.P.No.25423 of 2019.

2. The respondent has filed the aforesaid writ petition praying to issue a writ of certiorarified mandamus calling for the entire records relating to the order passed by the second appellant in Na.Ka.No.3775/A1/2016 dated 23.02.2017 and quash the same and consequently, direct the appellants to provide suitable employment to the respondent on compassionate grounds.

3. Before the writ court, it was stated by the respondent that her mother died on 09.05.2006, while she was working as a Secondary Grade Teacher in the Primary School at Rangapuram, Kaveripakkam Union, Vellore District. At the time of her mother's death, the respondent was a minor aged 14



W.A.No.741 of 2024

years. Her father was a drunkard and he had not taken care of the family. He took away all the terminal and pensionary benefits after the death of her mother and also got remarried. Hence, the respondent was under the care and custody of her maternal grandparents. It was the further case of the respondent that she filed a maintenance case against her father in M.C.No.7 of 2007, through her grandfather as guardian. In order to receive the monies due and payable to her, the respondent also filed suit as a pauper, in O.S.No.157 of 2009, to claim her half share in the terminal benefits and pension. The suit came to be decreed on 23.08.2010. After the respondent attained the age of 18, her grandfather made a representation on 08.07.2011 to the second appellant requesting compliance of the decree in O.S.No.157 of 2009 and also for granting compassionate appointment. At that time, they came to know that the respondent's father had also claimed compassionate appointment. However, the respondent's father died on 15.06.2013. Since there was no action on the representation, the respondent made another representation on 16.09.2016, which came to be rejected by order dated 23.02.2017 on the ground that the application was made belatedly after a lapse of 10 years. With these submissions, the respondent has preferred the writ petition for the relief as stated *supra*.



W.A.No.741 of 2024

4. Considering the facts and circumstances of the case and the arguments advanced by the learned counsel on either side, the learned Judge, taking note of the fact that the respondent made her first application on 08.07.2011 as soon as she attained the age of majority and the said representation was not considered until she gave another representation on 16.09.2016, held that the authorities have to take a liberal and sympathetic approach in the matter, especially considering the peculiar facts of the case. Further, it was held that the Government has the power to relax the rules in exceptional cases and it is not as if the Government has no power to do so; that it is only the policy decision of the Government which is reflected in the scheme not to permit applications made beyond three years from the date of death of Government servant and that in cases where there are absolute *bona fides* in a person not being able to file an application within three years and the case for compassionate appointment is quite strong, the authorities have to adopt a liberal approach and not to stand on technicalities. Finally, by order dated 14.07.2023, the learned Judge disposed of the writ petition, directing the authorities to consider the case of the respondent at least on humanitarian grounds and to pass final orders on her request for compassionate appointment, within a period of six weeks.



W.A.No.741 of 2024

5. Aggrieved by the order so passed by the learned Judge in the writ petition filed by the respondent, the appellant authorities are before this court with the present appeal.

6. The main contention of the learned Special Government Pleader appearing for the appellants is that the respondent did not make any application within three years from the date of death of her mother / Government servant and hence, the claim of the respondent was rejected by the authorities. However, the learned Judge erred in directing the authorities to consider the respondent's request seeking compassionate appointment, on humanitarian grounds by the order impugned herein.

7. On the other hand, the learned counsel for the respondent submitted that after analysing the entire facts and circumstances of the case, the learned Judge has rightly passed the impugned order, which does not require any interference by this court.

8. Heard both sides and perused the documents enclosed in the typed set of papers.



W.A.No.741 of 2024

9. It is seen that the respondent's mother died on 09.05.2006. The respondent made her first application on 08.07.2011 as soon as she attained the age of majority. Of course, the first application made was not within the period of three years from the date of death of the employee, as the applicant had not attained majority at the relevant point of time. Since the said application was not considered, she made another application to the authorities on 16.09.2016. As rightly observed by the learned Judge in the impugned order, the Government has framed the rules on the basis of its policy decision which is reflected in the scheme for compassionate appointment and as per the scheme of compassionate appointment, the application made after three years from the date of death of Government servant is not permitted. But the paramount importance that should be given, is *bona fides* of a person seeking compassionate appointment. In the present case, it is evident that at the relevant point of time, the respondent had not attained majority and once she attained majority, she made the application.

10. In this regard, the main question that should be answered is as to whether the family of the deceased was in indigent circumstances or not. The fact remained that the respondent's father abandoned her after the death of her mother and hence, she was brought up by her maternal grandparents with great



W.A.No.741 of 2024

difficulty. The terminal and other benefits of the respondent's mother were taken away by her father. Further, her father was a drunkard and he got married after the death of the mother of the respondent. In order to get 50% share out of the benefits of her mother, the respondent literally had a legal battle with her father which culminated in passing a decree in favour of the respondent by the Court. Earlier, the respondent had also filed a maintenance case against her father. In fact, she was not even able to pay the Court fee for the pauper suit filed by her before the Court for claiming 50% share as stated *supra*. Thus, the respondent was not able to get even the benefits of her mother who died in harness properly because of her father's activities. In the circumstances, it is clear that the respondent was certainly in indigent circumstances.

11. This is an exceptional case and leaving aside the technicalities, the Government has to take a liberal approach in respect of the cases of this nature. The Government has the power to relax the rules in an exceptional case, where there are absolute *bona fides*. Only in these circumstances, the learned Judge held that the respondent has to be considered for compassionate appointment at least on humanitarian grounds. This Court finds no reason to interfere with the order so passed by the learned Judge.



W.A.No.741 of 2024

12. Therefore, the writ appeal fails and is accordingly, dismissed. The appellants are directed to consider the case of the respondent on humanitarian grounds and pass final orders on her request for compassionate appointment, within a period of six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D, J.] [M.S.Q, J.]

04.03.2024

Neutral Citation : Yes/No
gya

To

1.The Director of School Education
DPI Compound, College Road
Chennai

2.The District Elementary Educational Officer
Vellore District

3.The District Educational Officer
Arakkonam, Vellore District

4.The Block Educational Officer
Kaveripakkam, Vellore District



WEB COPY



W.A.No.741 of 2024

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

gya

W.A.No.741 of 2024

04.03.2024