



W.P.(MD).No.3325 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3325 of 2021
and W.M.P.(MD).No.2673 of 2021

R.Suganya

... Petitioner

Vs.

1.The Secretary,
Social Welfare Department,
No.1, Panagal Maligai Building 2nd Floor,
Near Kalaignar Arch,
Jeenis Road, Saidepet,
Chennai – 600 015.

2.The Director of Social Welfare,
Social Welfare Department,
Panagal Maligai, Saidepet,
Chennai – 600 015.

3.The District Project Officer,
Office of the District Project,
WBCIDS-IV,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned rejection order in Na.Ka.No.17801/நிர் 4(3)/2019, dated 20.07.2020 of the 2nd respondent and quash the same as illegal



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and consequently, direct the 2nd respondent to issue an appointment order under compassionate ground based on the petitioner's representation, dated 21.07.2006 and as per the seniority list published by the 2nd respondent, dated 14.08.2019, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

The present writ petition has been filed to quash the impugned rejection order in Na.Ka.No.17801/நிர்4(3)/2019, dated 20.07.2020 of the 2nd respondent as illegal and consequently, direct the 2nd respondent to issue an appointment order under compassionate ground based on the petitioner's representation, dated 21.07.2006 and as per the seniority list published by the 2nd respondent, dated 14.08.2019, within a stipulated time that may be fixed by this Court.

2.The facts which led to the filing of this writ petition in brief is as follows:

The petitioner's father one D.Rajendran, while working as Industrial Co-operative Officer/ Bharathi Co-operative Food Producers Women's Co-operative Society, under the control of the District Programme Officer, Ramanathapuram, died on 07.12.2004. He was survived by his wife



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and four daughters, including the petitioner namely R.Suganya. On 21.07.2006, along with all necessary documents, the petitioner made a representation to the respondent seeking appointment on compassionate ground. The said representation was received by the respondent and the third respondent informed that the process would take some more time and the petitioner would be called by them in an appropriate time. On 16.05.2018, the third respondent required the petitioner to furnish a combined certificate in this regard as issued by the Tahsildar concerned. Accordingly, the petitioner also submitted the combined certificate from the Tahsildar concerned to the respondents. Since the petitioner's case was kept pending endlessly, the petitioner made a reminder representation on 16.05.2018 with respect of her pending representation, dated 21.07.2006. Even thereafter, nothing transpired from the respondents. However, after a long delay of almost 14 years, on 20.07.2020, the impugned order rejecting the petitioner's claim for appointment on compassionate ground came to be issued by the second respondent. Hence, this writ petition came to be filed.

3.The learned counsel for the petitioner submitted that the petitioner has submitted her application seeking appointment on compassionate ground within the period of three years from the date of death of the employee, on 21.07.2006.



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Thereafter, since the petitioner's case was not considered, she made a reminder on 16.05.2018. The learned counsel for the petitioner further drew my attention to the proceedings of the District Project Officer, Ramanathapuram, addressed to the Director of Social Welfare Officer, Chennai, dated 23.05.2018, which has dealt with the petitioner's reminder application, dated 16.05.2018, in which, the District Project Officer, Ramanathapuram, has claimed that the petitioner has submitted her application seeking appointment on compassionate ground, within a period of three years and that her file is thereby forwarded for proper appreciation. He also pointed out the proceedings of the Commissioner of Social Welfare Department, Chennai, addressed to all District Social Welfare Officers and District Project Officers, dated 14.08.2019, by which, a temporary seniority list of candidates for appointment on compassionate ground has been enclosed for the reference of the various District Social Welfare Officers/ District Project Officers, across the State. It is also pointed out by the learned counsel for the petitioner that the petitioner's name has been placed in serial number 6 in the afore said enclosed seniority list. However, without application of mind, the respondents have rejected the petitioner's claim and the same is liable to be quashed and pressed for allowing the writ petition.



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4.The second respondent has filed the counter affidavit and the learned Government Advocate Mr.C.Satheesh, vehemently submitted that the application was not made within a period of three years from the date of death of the employee and hence, the petitioner is ineligible for compassionate ground appointment as per G.O.Ms.No.42, Labour and Employment Department, dated 12.03.2007. Further, he emphatically contended that only eligible member of the family could be extended with such benefits and ineligible persons cannot claim appointment on compassionate ground, if the application is made after several years as in the case of the petitioner. He pointed out that the petitioner had made an application only on 16.05.2018 and the application as claimed by the petitioner to have been submitted on 21.07.2006 cannot be considered, since the same do not have any office seal or acknowledgment, signature of the Officer concerned.

5.Further, he relied upon the judgment of the Honourable Supreme Court made in the case of *Mumtaz Yunus Mulani Vs. State of Maharashtra & Ors.* reported in **2008 (11) SCC 384** and the Judgment of a learned Single Judge of this Court made in the case of *D.Lokeswari Vs. State of Tamil Nadu & Ors.* in **W.P.No.37781 of 2015**, dated 26.07.2022, and pressed for dismissal of the writ petition.



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6.Heard the learned counsel for the petitioner and the learned Government Advocate and carefully perused the materials available on record.

7.The precise question which has to be decided in this issue in hand is as to whether the petitioner submitted her application within three years from the date of death of the employee, i.e., 07.12.2004. As pointed out by the learned Government Advocate, the application dated 21.07.2006 is bereft of any office seal or signature of the competent officer. The proceedings of the District Project Officer, Ramanathapuram, dated 16.05.2018 has a reference of the petitioner's application, reminder application, dated 16.05.2018. That apart the proceedings in ந.க.எண்.25243/நிர்4(3)/2017, Dated 14.08.2019 of the Commissioner of Social Welfare Department, Chennai, addressed to all District Social Welfare Officer / District Project Officers, across the State along with an enclosure of a seniority list of candidates for compassionate ground appointment has been brought to the attention of this Court, in which, the petitioner's name is placed in Sl.No.6. Even in the impugned order in Na.Ka.No.17801/நிர்4(3)/2019, dated 20.07.2020, in paragraph No.4, there is a precise discussion as to the eligibility of the petitioner's application, dated 21.07.2006, pointing the absence of the office seal of the respondent.



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8.The counter affidavit which has been filed on behalf of the second respondent was carefully perused by this Court and I do not find any denial with respect to the authenticity of the seniority list for compassionate ground appointment enclosed along with the proceedings of the Commissioner of Social Welfare Department, Chennai, dated 14.08.2019. In view of the same, I am of the considered view that only on considering the petitioner's application, dated 21.07.2006, which is available in the records maintained before the Commissionerate of Social Welfare Department, Chennai, as pointed out by the District Project Officer in her proceedings, dated 23.05.2015, forwarding the petitioner's application to the Directorate of Social Welfare Department, Chennai, the aforesaid seniority list for compassionate ground appointment has been drawn. In view of the same, I conclude that the petitioner's application, dated 21.07.2006, which was preferred within a period of three years from the date of death of employee was duly considered and on that basis her candidature is placed in place Serial No.6 of the State-level seniority list of the candidates for appointment on compassionate ground maintained by the Commissionerate of Social Welfare Department. Negating the same, the second respondent ought not to have passed the impugned order rejecting the petitioner's claim for compassionate appointment.



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9. Accordingly, the impugned order, dated 20.07.2020, in Na.Ka.No. 17801/நிர்4(3)/2019, is hereby quashed and the second respondent is directed to provide the petitioner with appointment on compassionate ground on the basis of the seniority list maintained by the Commissionerate of the Social Welfare Department, Chennai, in ந.க.எண்.25243/நிர்4(3)/2017, Dated 14.08.2019, within a period of eight weeks from the date of receipt of a copy of this order.

10. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
TM

To

1. The Secretary,
Social Welfare Department,
No.1, Panagal Maligai Building 2nd Floor,
Near Kalaingar Arch,
Jeenis Road, Saidepet,
Chennai – 600 015.



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2.The Director of Social Welfare,
Social Welfare Department,
Panagal Maligai, Saidepet,
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3.The District Project Officer,
Office of the District Project,
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Ramanathapuram District.



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L.VICTORIA GOWRI, J.

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**ORDER IN
W.P.(MD).No.3325 of 2021**

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