



W.P.(MD).No.9614 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.9614 of 2023

K.Dhanalakshmi

... Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.

2.The Superintendent of Police,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned rejection letter vide Na.Ka.No.A1(3)/58138/2018 dated 29.12.2022 passed by the second respondent and quash the same as illegal and arbitrary and further direct the respondents to give the compassionate appointment to the petitioner's daughter namely K.Priyadharshini.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.M.Lingadurai
Special Government Pleader



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ORDER

Heard Mr.A.Rajaram, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader for the respondents.

2. This Writ Petition has been filed to quash the order dated 29.12.2022 passed by the second respondent and further direct the respondents to give the compassionate appointment to the petitioner's daughter namely K.Priyadharshini.

3. The petitioner's husband was working as Special Sub Inspector of Police and he died on 15.06.2018, leaving behind the petitioner and her daughter as legal heirs. At the time of death of the petitioner's husband, her daughter was 14 years of age. In this regard, the petitioner had submitted an application on 25.03.2021 seeking compassionate appointment for her daughter namely, K.Priyadharshini. Since no action was taken, the petitioner preferred representation dated 20.12.2022 to the second respondent seeking for compassionate appointment to her daughter, pursuant to which an impugned order dated 29.12.2022 came



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to be passed by the second respondent rejecting the claim of the petitioner.

4. In the impugned order dated 29.12.2022, the following reasons have been stated:

- i) The application shall be filed within three years from the date of death of the Government servant and the applicant must have completed 18 years of age at the time of submission of application.*
- ii) The petitioner has submitted the application for compassionate appointment not for herself but for her daughter, who was aged about 14 years at the time of death of the petitioner's husband.*
- (iii) The limitation of three years for filing application expired on 15.06.2021 and on the date of the period of limitation of three years, the age of daughter was just 16 years and 8 months.*

5. It is further observed that even after the expiry of three years from the date of death of the petitioner's husband late Kalimuthu, the daughter of the petitioner was a minor and hence, the application cannot be considered.



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6. However, in the Government Order in G.O.Ms.No.33 dated 08.03.2023, the following amendment has been made:

LABOUR WELFARE AND SKILL DEVELOPMENT (Q1) DEPARTMENT

G.O.(Ms).No.33

Dated: 08.03.2023

6. Age limit.-

.....

(2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment:

Provided that appointment shall not be provided unless the applicant completes eighteen years of age.

.....

7. The above rule contemplates that the minimum age need not be a criteria to reject the application, but the age plays a crucial role only when the appointment order is issued and during the relevant point when the appointment order is released, the applicant ought to have completed 18 years of age.



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8. Mr.A.Rajaram, learned counsel for the petitioner submitted that the Government Order in G.O.Ms.No.33 has come into force only on 08.03.2023 and hence it should be given with prospective effect.

9. The rule in respect of age that has been issued in G.O.Ms.No.33 dated 08.03.2023 is just a clarification about the earlier rules in place with regard to minimum age for submitting the application and hence it need not be considered as a new rule which has come into force only after issuance of the above Government Order.

10. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned rejection letter in Na.Ka.No.A1(3)/58138/2018 dated 29.12.2022 is set aside. The respondents are directed to reconsider the application of the petitioner in a wholistic manner considering the other merits and pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

11.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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R.N.MANJULA, J.

Nsr

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