



W.P.(MD)No.19746 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.19746 of 2022

R.Lalitha

... Petitioner

vs.

1.State Represented by the Secretary,
Municipal Administration and Water Supply Department,
St. George Fort,
Chennai – 09.

2.The Commissioner,
Municipal Administration,
Chepauk, Chennai-05.

3.The Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.

.... 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 in pursuant to the impugned order passed by the third respondent in Na.Ka.No.9478/2021/C1(Mai) dated 25.07.2022 and quash the same and consequently to direct the respondents to provide employment to the petitioner on compassionate grounds based on the



W.P.(MD)No.19746 of 2022

Educational Qualification within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner	:Mr.V.Muthukamatchi
For R-1 & R-2	:Mr.M.Ramesh, Government Advocate
For R-3	:Mr.K.R.Kishore Ram for M/s.R.B.Law Associates

ORDER

The petitioner has filed this writ petition challenging the impugned order passed by the third respondent in Na.Ka.No.9478/2021/C1(Mai), dated 25.07.2022 and to direct the respondents to provide employment to the petitioner on compassionate grounds based on her educational qualification within a stipulated time.

2. The petitioner's husband, who was working as an NMR employee in the third respondent Corporation from 19.02.1985 and thereafter, promoted as 'Driver' on daily wage from 22.02.1990, died on 26.03.2003. Immediately thereafter, on 01.03.2004 ie, within three years from the date of death of her husband, the petitioner made an application



W.P.(MD)No.19746 of 2022

for appointment on compassionate ground. On receiving the said application, the third respondent sent a reply stating that after lifting the ban order, the request of the petitioner will be considered. Thereafter, there was no response. Hence, once again on 04.04.2022, the petitioner has made an application to the third respondent. However, the petitioner's application was rejected on the ground that the employment of the petitioner's husband was not regularized and hence, the benefit cannot be extended to the petitioner.

3. The learned counsel for the petitioner drew the attention of this Court to the earlier decision rendered in ***S.Gandhimathi v. The Deputy Registrar of Cooperative Society and others*** reported in ***2003 Writ L.R.479***, wherein this Court has held that by applying the Rule of Fiction, the deceased shall be deemed to have been regularised, in view of his long service. Relevant portion of the said judgment is extracted as under:

“14. By applying the rule of fiction the deceased is deemed to have been regularised. In terms of The Tamil Nadu Industrial Establishment



W.P.(MD)No.19746 of 2022

(Conferment of Permanent Status to Workman) Act, the deceased ceased to be a casual and deemed to be a regular employee with permanent status on his completing 480 days and on the date of death he was a permanent employee and therefore his son for whose benefit the writ petition has been filed is entitled to be considered for appointment on compassionate ground. The contention that the deceased always remained a casual labourer as no orders have been passed even though proposal was sent for regularisation cannot be sustained.”

4. In the instant case also, the petitioner claims that his husband was appointed in the year 1985 and he died during the year 2003 after having put 18 years of service and hence, Rule of Fiction can be applied and it can be presumed that the petitioner's husband would have been regularized, had he was alive.

5. Taking into account of the long services of the petitioner's husband and by applying the Rule of Fiction, I feel that the third respondent be given suitable direction to reconsider the petitioner's application.



W.P.(MD)No.19746 of 2022

WEB COPY

6. In view of the above stated reasons and also in the light of the judgment held in *S.Gandhimathi's case(cited supra)*, the impugned order passed by the third respondent dated 25.07.2022, is set aside and the third respondent is directed to reconsider the application of the petitioner and pass orders afresh within a period of six weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of. No Costs.

06.06.2024

NCC: Yes/No
Index : Yes/No
PM



W.P.(MD)No.19746 of 2022

To
WEB COPY

- 1.The Secretary,
State of Tamil Nadu,
Municipal Administration and Water Supply Department,
St. George Fort,
Chennai – 09.
- 2.The Commissioner,
Municipal Administration,
Chepauk, Chennai-05.
- 3.The Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.



WEB COPY



W.P.(MD)No.19746 of 2022

R.N.MANJULA, J.

PM

W.P.(MD)No.19746 of 2022

06.06.2024