



W.P.(MD)No.25474 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.25474 of 2022

R.Samraj Radha

... Petitioner

Vs.

1.The Secretary,
Health and Family Welfare Department,
Tamil Nadu.

2.The Additional Director (Admin),
Health and Family Welfare Department,
Tamil Nadu.

3.The Joint Director,
Health and Family Welfare Department,
Nagapattinam 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 on the file of the second respondent in Na.Ka.No. 36078/NiPi8/1/2019 dated 28.09.2020 and to quash the same as arbitrary and illegal and consequently direct the second respondent to reconsider the representation of the petitioner dated 14.11.2016 and to appoint the petitioner herein on any post under compassionate appointment based on the qualification of the petitioner.



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For Petitioner : Mr.K.R.Nishanth

For Respondents : Mr.M.Lingadurai,
Special Government Pleader

ORDER

Heard Mr.K.R.Nishanth, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondent.

2. This Writ Petition has been filed seeking to quash the impugned order passed by the second respondent in Na.Ka.No. 36078/NiPi8/1/2019 dated 28.09.2020 and consequently, to direct the second respondent to reconsider the representation of the petitioner, dated 14.11.2016 and to appoint the petitioner herein on any post in the respondent Department under compassionate appointment based on the qualification of the petitioner.

3. The petitioner's mother, who filed an application seeking compassionate appointment due to the death of the petitioner's father on 01.02.2004, had lost eligibility due to her age. Hence, the petitioner was compelled to file another application seeking compassionate appointment for him as he had the eligible age. Since the delay caused by the respondents is the



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reason for rendering the petitioner's mother as ineligible due to her crossing maximum age limit, the respondents ought to have considered the petitioner's application on merits. In the impugned order itself, it has not been denied that the petitioner's mother had crossed the eligible age due to the long pendency of her application. In such case, the respondents ought to have applied the Rules by condoning their own delay.

4. Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents submitted that even the substitution application ought to have been filed within one year from the date of her application.

5. The necessity to submit a substitution application has arisen due to any other reason, but only due to the fact that the petitioner's mother has lost the eligibility due to the delay involved in considering her application. The petitioner's mother could not have anticipated the delay in order to get the petitioner's application within one year.

6. In view of the above extraneous circumstances, this Writ Petition is **allowed** and the impugned order of the second respondent in Na.Ka.No. 36078/NiPi8/1/2019 dated 28.09.2020 is set aside and the matter is remanded



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back to the file of the second respondent and the second respondent is directed to reconsider the matter and pass an order afresh on other merits on the application and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. In case of giving positive consideration, the seniority for the petitioner to release the appointment should relate back to the time during which the petitioner's mother submitted the application originally. No costs.

06.06.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

1.The Secretary,
Health and Family Welfare Department,
Tamil Nadu.

2.The Additional Director (Admin),
Health and Family Welfare Department,
Tamil Nadu.

3.The Joint Director,
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R.N.MANJULA, J.

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