



WEB COPY

W.P.No.23313 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23313 of 2023

and

W.M.P.No.22848 of 2023

J.Bhavatharani

... Petitioner

Vs.

1.The Director of School Education,
D.P.I.Campus, College Road,
College Road, Chennai- 600 006.

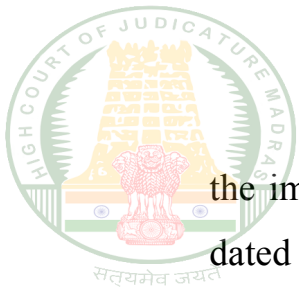
2.The Joint Director of School Education,
(Paniyalar Thoguthi), College Road,
Nungambakkam, Chennai-6

3.The Chief Educational Officer,
Erode District.

4.The District Educational Officer,
Erode District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to



the impugned order passed by 3rd respondent in in Na.Ka.No.3902/A1/2021 dated 15.12.2022 and consequential order passed by 2nd respondent in Na. Ka. No.56189/J/E4/2017, dated 11.03.2023 and to quash the same, and consequently direct the respondents to provide appropriate appointment to the petitioner on compassionate ground.

For Petitioner : Mr.K.Sathish Kumar

For Respondents : Mr.Prabhakaran
Government Advocate

ORDER

The writ petition has been filed seeking to call for the records pertaining to the impugned order passed by 3rd respondent in Na.Ka.No.3902/A1/2021 dated 15.12.2022 and consequential order passed by 2nd respondent in Na. Ka. No.56189/J/E4/2017, dated 11.03.2023 and to quash the same, and consequently direct the respondents to provide appropriate appointment to the petitioner on compassionate ground.

2.The case of the petitioner is that, the petitioner's mother one R.Bharathi, died on 11.04.2011, who was working as Head mistress in the Panchayat Union Elementary School, Chellathampalayam, Modakurichi, Erode District, leaving behind the petitioner and her father as her legal heirs.



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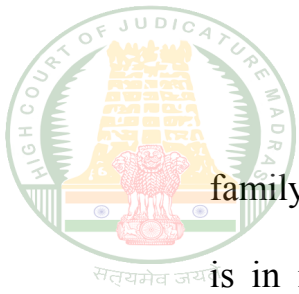
The petitioner's father studied only upto 3rd standard and the petitioner was a handicapped person. Therefore, the petitioner's father gave a representation, dated 30.01.2013 to the respondents 1 and 4 for appointment of the petitioner on compassionate ground, enclosing all the documents. The petitioner's representation was not considered. The 3rd respondent had issued proceeding dated 03.03.2013 stating that as per G.O.Ms.No.120 (Labour and Employment Department) dated 26.06.1995 and G.O.Ms.No.719(Labour and Employment Department) dated 19.04.1989 based on G.O.Ms.No.112 (Personal and Administrative reforms Department) dated 23.08.2005, the petitioner will not be considered for compassionate appointment. According to the petitioner, she has completed her Diploma in Elementary Education in the year 2016, and B.Lit (Tamil) in the year 2017 and the petitioner is a 45% disabled person and she is not in a position to make the ends meet and she is also married and having one child, her husband is doing cooli work. The petitioner approached the Government seeking for appointment on compassionate grounds as she should be given a job as she is the person nominated by the legal heirs of the deceased Government servant subject to eligibility and according to her, as per G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020 her case should have been



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considered. It is seen that the Tahsildar and other Revenue Officials have given appropriate certificates. The petitioner had earlier filed a Writ Petition in W.P.No.17884 of 2022, for writ of mandamus and this Court by an order 14.07.2022, directed the 1st respondent to consider the petitioner's representation dated 30.01.2013 and take a decision as per G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020 and based on the petitioner's seniority, and communicate the same to the petitioner. The 2nd and 3rd respondents have rejected the petitioners representation on the ground the petitioner's claim is not in accordance with the Government order as at the time of seeking appointment (30.01.2013) she was a minor.

3. According to the petitioner, there is no specific clause and maximum age limit for the son or daughter of the deceased Government servant and the unmarried brother / unmarried sister of the unmarried deceased Government servant will be 40 years at the time of applying. According to them, the petitioner's father made an application within 3 years when the mother died on 11.04.2011 and he had given an application on 30.01.2013, the petitioner's father who was an illiterate could not proceed further in the manner known to law. For offering the job, the financial condition of the family and the



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family's annual income should be less than Rs.2,00,000/-, whether the family is in indigenous circumstances and not having any property or any other properties in the name of the legal heirs are to be considered. The petitioner being a 45% disabled person finished B.Lit in Tamil in second class and seeks the appointment. The petitioner submits that the reasons assigned by the 2nd and 3rd respondents, to reject the applications are not acceptable, cogent convincing and they are contradictory. Hence, the present writ petition has been filed.

4.On going through the counter filed by the 2nd respondent, it is seen that the application ought to have been made within a period of 3 years. Even though the application submitted is still invalid because the petitioner was a minor. Rules require that the applicant should be “eligible” while considering the same. The retroactive eligibility would undermine the purpose of compassionate appointment system which is designed to provide immediate relief to the family to omit the eligibility criteria. Further, the G.O.Ms.No.18 which prioritizes the seniority of application and the application was still not valid as it did not meet the criteria at the time of submission. They would further submit that the rules were applied consistently and accordingly, since



the petitioner was a minor, she cannot be considered. The rejection of the application was based on the clear regulation regarding age and qualification.

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The petitioner has completed education qualification several years later only and had filed the writ petition in the year 2022 and the same cannot considered.

5.Learned counsel appearing for the petitioner relying upon the judgment of this Court in W.A.(MD)No.737 of 2013 wherein it has been stated as follows:

" 12.By relying upon various decisions of Division Bench and the Hon'ble Supreme Court, the very same issue has been dealt with elaborately by one of us (N. Paul Vasanthakumar, J.) in the following cases:

1. MOHANAMBAL V. DIRECTOR, LAND AND SURVEY DEPARTMENT [2011 (2) ML) 47]

2.J.JEBA MARY V.THE CHAIRMAN, TAMIL NADU ELECTRICITY BOARD [2011 (3) LLN 405]

3. G SARAVANAKUMAR v. THE CHAIRMAN TAMIL NADU ELECTRICITY BOARD, CHENNAI (2011 (2)



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4. *R. PRASATH v. THE SECRETARY, LABOUR AND EMPLOYMENT DEPT., CHENNAI (W.P. No. 3078 of 2006, dated 17.06.2010)*

5. *M.UMA V. THE CHIEF ENGINEER (PERSONNEL) CHENNAI (W.P.(MD). No. 4050 of 2006, dated 29.06.2010)*

After analyzing the above said case laws, it was held that within 3 years of death of her husband, when the widow applied for appointment on compassionate ground, and due to bar of age etc., when she could not be appointed and the request for appointment has been followed by her son/daughter, who have then not attained majority and subsequently, applied within three years of their attaining majority, the request could be considered as continuation of their mother's application and the application given by him/her during the minority also could be considered as continuation of such earlier application and it cannot be denied on the ground that the application has been presented beyond 3 years of death of the father. It is not the case of the respondents that the family of the appellant is not in



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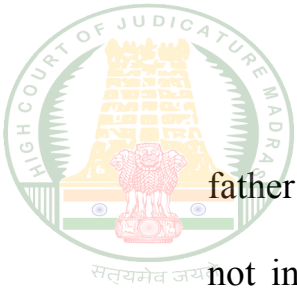
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indigent status as on today.

13. For the foregoing reasons, the order of the learned Single Judge made in W.P.(MD) No. 13980 of 2009 dated 13.09.2010 is liable to set aside."

The petitioner has not applied within three years from the date of death of her husband, again she shall submit a representation later seeking for suitable employment. The 3rd respondent rejected her request on the ground that she has not completed 8th standard and appellant has not attained majority at that time and the same has been challenged. The Bench was of the view that three years after the death of her husband, when the widow applied for an appointment on compassionate ground, and due to bar of age etc., when she could not be appointed and request for appointment has been followed by her son/daughter, who have then not attained majority and subsequently, applied within three years of their attaining majority, the request could be considered as continuation of their mother's application and the application given by him/her during the minority also could be considered as continuation of such earlier application and it cannot be denied on the ground that the application has been presented beyond 3 years of death of the



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father. It is not the case of the respondents that the family of the appellant is not in indigent status as on that day accordingly, it was allowed. But here there is slight difference.

6.Heard the learned counsel for the petitioner and respondents.

7.It is pertinent to note that, the petitioner has not approached the authorities after she attained majority and the same was also left to be looked into by this Court. While, going through the order passed by the Chief Educational Officer, the petitioner was not accepted because of the reason that she could not apply immediately after attaining the said qualification was only due to ignorance of the facts, rules and regulations. They are of the view that, the petitioner was not eligible on the date of application because she was minor. Hence, the same was not considered and the same was rejected on that ground. The said rejection was reiterated by the Joint Director without dealing the matter on this perspective and also it is only reiteration of the said order passed by the 3rd respondent and it is a cryptic order. Hence, without applying his mind the authorities has passed the orders. Hence, this Court is inclined to remand the matter back to the said Joint Director who is 2nd



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respondent herein and the said official has to apply his mind and pass appropriate order and also taking into consideration of the fact that the petitioner was a minor at the time of death of her mother and also she has disability of 45% and having a family to be taken care. This Court has already reiterated in many cases that, married daughter is also entitled for compassionate appointment and the authorities can consider the claim of the petitioner by holding an enquiry regarding the indigent circumstances of her family and pass appropriate orders within a period of 16 weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2025

vsn

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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