



W.A.(MD).No.1115 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD).No.1115 of 2024
and
C.M.P.(MD).No.8472 of 2024

K.S.Devika

... Appellant/Writ Petitioner

Vs.

1.The Chief Educational Officer,
District Educational Office,
Madurai District,
Madurai.

2.The District Educational Officer,
Madurai District,
Madurai.

3.The District Elementary Educational Officer,
Madurai District,
Madurai.

4.The Assistant Elementary Educational Officer,
Madurai South,
Madurai.

... Respondents/Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to allow this Writ Appeal by setting aside the order passed by this Court in W.P.(MD). No.14621 of 2022 dated 11.07.2023.

For Appellant : Mr.V.Thirumal
For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

The appellant herein is aggrieved by the dismissal of W.P.(MD). No.14621 of 2022 filed by her.

2. The appellant's husband, Sivakumar, was working as Office Assistant in a Panchayat Union Middle School. He passed away on 26.10.2013. The appellant submitted an application for compassionate appointment on 11.11.2014. The said application was not disposed of and was kept pending. In these circumstances, the appellant submitted yet another application on 25.11.2019 seeking compassionate appointment for her son, namely, S.Aravind Hrishikesh. The alternate application submitted by the appellant was rejected on 10.01.2020. Challenging the same, the appellant filed W.P.(MD).No.4399 of 2020. The order impugned in the said Writ Petition was quashed and the Writ



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Petition was allowed on 26.07.2021 in the following terms:

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“5.In view of the same, the impugned order, dated 10.01.2020, passed by the first respondent is liable to be set aside and the same is hereby set aside. The petitioner has stated that due to non-consideration of her earlier application for appointment on compassionate ground, she was forced to do tailoring work to maintain her family and educate her son. Due to the tailoring work, she is suffering from Hypothyroidism, Anemia with Osteoarthritis knee joints. Due to the inaction of the respondents for more than 5 years in not considering the application, the respondents are directed to consider the application of the petitioner seeking appointment on compassionate ground for her son and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.”

3. Pursuant to the said direction, the authority once again re-visited the issue, but again passed an order of rejection on 27.09.2021. Aggrieved by the same, the appellant filed W.P.(MD).No.14621 of 2022. The learned Single Judge, vide order dated 11.07.2023, dismissed the Writ Petition.

4. The learned counsel appearing for the appellant reiterated all the contentions set out in the grounds of appeal. He placed reliance on G.O. (Ms)No.33, Labour Welfare and Skill Development (Q1) Department, dated



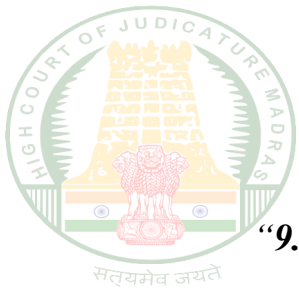
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08.03.2023. The learned counsel relied on the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023 in support of his contention that an alternate application ought to have been considered. He placed particular reliance on the earlier order passed by this Court dated 26.07.2021 made in W.P.(MD).No.4399 of 2020. He called upon this Court to set aside the order of the learned Single Judge and grant relief as prayed for.

5. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the impugned order is well reasoned and that it does not warrant interference.

6. We carefully considered the rival contentions and went through the materials on record.

7. At the very outset, we may state that the reliance on Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023 may not come to the rescue of the appellant. This is for more than one reason. Rule 9 set out in the said Rules provides for permitting of alternative application, which reads as follows:



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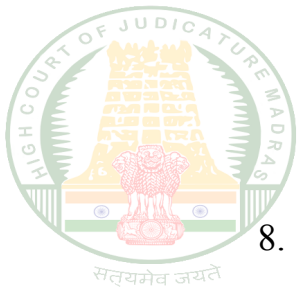
“9. Alternative application.— *An applicant, within a period of one year from the date of making the application for appointment under these rules, on the ground of his ill health or for any other reason, on his request in writing, may be permitted by the appointing authority to nominate any other member of the family to make an alternative application, subject to eligibility in the order of priority specified in sub-rule (2) of rule 3:*

Provided that, no such alternative application shall be permitted to be made more than once:

Provided further that, no such application shall be permitted to be made after the appointment of the original applicant.

(2) In the case of death of an applicant before being provided with an appointment under these rules, the other eligible member of the family, as per the order of priority specified in sub-rule (2) of rule 3, may make an alternative application for the appointment.”

It can be seen from the above Rule that the alternative application has to be submitted within one year from the date of making the original application. In this case, the original application was made on 11.11.2014. Thereafter, the second application was made only in the year 2019, i.e., 5 years later. Therefore, the above Rule may not come to the appellant's rescue.



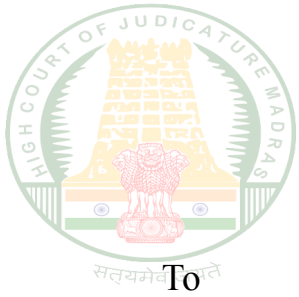
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8. The appellant's husband passed away in the year 2013. During the relevant time, Aravind Hrishikesh, son of the appellant, was a minor. It is well settled that when an application for compassionate appointment is submitted, the applicant must have completed 18 years of age. Therefore, Aravind Hrishikesh was obviously not qualified to be appointed. We have consistently held that a vacancy that has arisen as a result of death of a Government Servant cannot be kept vacant till his legal heir attains majority. It is true that an order in favour of the appellant was passed in W.P.(MD).No.4399 of 2020 on 26.07.2021. But then, in our respectful view, it is an order that is contrary to law and therefore, cannot be enforced. It is well settled that no Mandamus can be issued contrary to law. Looked at from any angle, we are not able to fault the order of the learned Single Judge.

9. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(G.R.S.,J.) (K.R.S.,J.)
15.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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