



W.P.(MD).No.5282 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.5282 of 2021

and

W.M.P(MD)No.4210 of 2021

T.Kathiravan

... Petitioner

Vs.

1.The Commissioner of Social Welfare,
O/o.The Commissioner of Social Welfare,
Panagal Maligai 2nd Floor,
Saidapet, Chennai - 15.

2.The District Collector,
Karur District,
Karur.

3.The Personal Assistant to District Collector (Noon Meals),
O/o. Personal Assistant to District Collector (Noon Meals),
Karur,
Karur District.

4.The Block Development Officer,
O/o.Block Development Officer,
K.Paramathi Union, K.Paramathi,
Karur District.

... 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



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records relating to the impugned order passed by the 1st Respondent in his proceeding in அ.தி.மு.16112/சஉதி1(3)/2020, dated 28-11-2020 and consequential impugned order issued by the 4th respondent vide his proceedings Na.Ka.A6/1547/2016 dated 16-12-2020 and quash the same as illegl and consequentially to direct the respondents to appoint the petitioner on compassionate ground commensurate with the qualification of the petitioner within the priod thay may be stipualated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed to call for the records relating to the impugned order passed by the 1st Respondent in his proceeding in அ.தி.மு.16112/சஉதி1(3)/2020, dated 28-11-2020 and consequential impugned order issued by the 4th respondent vide his proceedings Na.Ka.A6/1547/2016 dated 16-12-2020 and quash the same as illegl and consequentially to direct the respondents to appoint the petitioner on compassionate ground commensurate with the qualification of the petitioner within the priod thay may be stipualated by this Court.



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2. The petitioner's father, namely M.Thangavel was working as Noon Meal organizer in the 4th respondent office. While he was in service, he died on 08.01.2019 leaving behind the petitioner, his mother and younger brother as legal heirs. Thereafter, the petitioner made an application on 09.08.2019 seeking for compassionate appointment. His application was processed by the 4th respondent vide his proceedings, dated 16.10.2019 and forwarded the petitioner's application to the 2nd respondent. However, finally the application was forwarded to the 1st respondent for adjudication. The 1st respondent passed an order on 28.11.2020 rejecting the claim of compassionate appointment made by the petitioner on the ground that when a women legal heir is available, the claim of the petitioner could not be considered as the petitioner is a male legal heir. Challenging the same, the present writ petition came to be filed.

3. The learned counsel for the petitioner vehemently submitted that the presence of a women legal heir would not take away his right to seek compassionate appointment and it would be the priority of the family to decide as to who should avail the compassionate appointment and on that ground, the impugned proceedings ought not to have been passed and hence this writ petition should be allowed.



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4. Per contra, the learned Special Government Pleader vehemently relied upon G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010 and also the Government Letter No.13658/ஈ.உ.4-2/2016-1, dated 17.02.2017 and submitted that the female members alone would be accepted by the respondent as Noon Meal Organizer in a Noon Meal Scheme post and male person cannot be accommodated in the said post. In this particular case, when the petitioner's mother, namely Sumathi whose age was 39 years at the time of filing of the writ petition, was available for the said post, it is only for her to compete under compassionate appointment for the particular post of Noon Meal Organizer and the petitioner, being a male is not eligible to be posted in the said post.

5. Heard Mr.C.Venkatesh Kumar, learned counsel for the petitioner and Mr.N.Muthuvijayan, learned Special Government Pleader for the respondents and perused the available records.

6. The learned counsel for the petitioner drew my attention to the order passed by this Court in W.P.No.24005 of 2014 wherein a similar case was dealt with, in which this Court has passed a favourable order deviating from the mandates of G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme



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Department, dated 18.08.2010 relaxing the said criteria and providing with a male applicant with a same Noon Meal Organizer post. The learned counsel for the petitioner also drew my attention to another order passed by this Court in W.P(MD)4031 of 2020 in a similar case where a male was appointed in the Noon Meal Organizer post relaxing the conditions mandated in G.O.Ms.No. 163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010

7. In view of the same, this Court is inclined to direct the 1st respondent to relax the condition that only a female person could be appointed in the post of Noon Meal Organizer and also upholding the right of the family members of the deceased employee that it is only the priority of the family members who should seek for compassionate appointment. In view of the fact that the petitioner's mother and the other younger brother have given no objection, this Court is inclined to direct the 1st respondent to relax the provisions of G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010 and appoint the petitioner who is a male in a Noon Meal Organizer post within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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8. With the above said observations, this Writ Petition stands allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : No
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L.VICTORIA GOWRI, J.

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