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W.A.No.675 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.675 of 2023

R.Sangeetha Priya

.. Appellant

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Education Department, Fort St. George
Chennai – 600 009.
 2. The Joint Director (Employees Section) of School Education
Directorate of School Education
DPI Complex, College Road
Chennai – 600 006.
 3. The Head Master
Government Boys Higher Secondary School
Poigai, Vellore District.
- .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against
the order made in W.P.No.18741 of 2022 dated 22.07.2022.

For the Appellant : Mr.S.N.Ravichandran

For the Respondents : Mr.U.M.Ravichandran
Special Government Pleader



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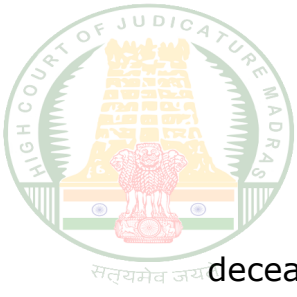
JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ Court dated 22.07.2022 made in W.P.No.18741 of 2022.

2. One *K.Rajendiran*, who was working as Headmaster in the respondent School, died in harness on 05.10.2015. There are four legal heirs for the deceased employee, viz., the wife, two daughters and one son. The son of the deceased employee made an application seeking compassionate appointment on 24.07.2017. The said application was under consideration at the hands of the respondent Department. While so, at one point of time, one of the daughters and the son of the deceased employee gave No Objection, stating that the nominee for compassionate appointment application could be changed to one of the daughter, under whose favour the said application seeking compassionate appointment could be converted and her request for compassionate appointment could be considered.

3. The request to that effect, given by all the legal heirs of the



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deceased Government servant, was forwarded with a recommendation by the third respondent, that is the Headmaster of the concerned School, in December, 2021, to the following effect:-

“வேலுார் மாவட்டம், பொய்கை அரசு ஆண்கள்
மேல்நிலைப்பள்ளியில் தலைமை ஆசிரியராக பணிபுரிந்து
பணியிலிருக்கும்போது 05.10.2015 அன்று மரணம்
அடைந்த திரு.கே.ராஜேந்திரன் என்பரின் வாரிசு மகன்
R.கௌதம்ராஜன் என்பவர் முதன் முதலில் கருணை
அடிப்படையில் பணிவாய்ப்பு வழங்குகோரி விண்ணப்பம்
பரிந்துரை செய்து பணிந்தனுப்பப்பட்டது. தற்பொழுது
திரு.கே.ராஜேந்திரன் என்பரின் வாரிசு மகன்
R.சங்கீதபிரியா என்பவருக்கு கருணை அடிப்படையில்
இளநிலை உதவியாளர் பணிவாய்ப்பு வழங்கக் கோரும்
விண்ணப்பம் பரிந்துரை செய்து பணிந்தனுப்பப்படுகிறது.”

However, the second respondent who is the appropriate Authority to consider the same, having taken recourse to the Clause in G.O.(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, rejected such request given by the appellant, who is one of the daughter of the deceased employee, and that order was passed on 14.12.2021, which was under challenge before the Writ Court.



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4. The learned Writ Court, having extracted the relevant portion of G.O.(Ms)No.18 dated 23.01.2020 in the Writ order, where under the Heading "Alternative Application" it has been stated that if the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from the another legal heir of the deceased Government Servant, subject to conditions prescribed for compassionate ground appointment, rejected the Writ plea and the writ petition was accordingly dismissed through the impugned order dated 22.07.2022.

5.1. Heard *Mr.U.M.Ravichandran*, learned Special Government Pleader for the respondents, who would contend that G.O.(Ms)No.18 has come into effect from 23.01.2020, whereas, the death of the deceased Government employee occurred on 05.10.2015. Therefore, before G.O.(Ms)No.18 came into effect, the Government Order which was prevailing then was G.O.(Ms).No.120, under which within three years an application should be made and the maximum age was fixed at 50 years for the employment seeker. Since no other conditions, as has been contained in G.O.(Ms)No.18, has been prescribed in the earlier Government Order, whether the conditions imposed in G.O.(Ms)No.18 could be



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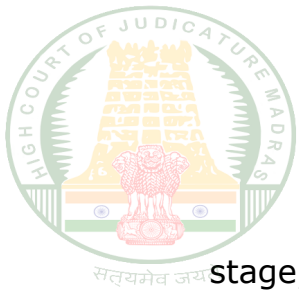
taken into account is the question now.

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5.2. In this context, the learned Special Government Pleader would further submit that assuming that this condition cannot be imposed against the employment seeker who is also one of the legal heir of the deceased Government employee and otherwise entitled to seek for such compassionate appointment, the other major criterion is that the employer should verify whether the family of the employment seeker is still in indigenous circumstances and without verifying such status, it cannot be stated that the family is still in indigenous circumstances and that the present employment seeker is entitled for getting compassionate appointment.

6. We have also heard *Mr.S.N.Ravichandran*, learned counsel appearing for the appellant, who would submit that the family of the employment seeker is still in indigenous circumstances, however, no documents to that effect from the Revenue Tahsildar has been filed before this Court.

7. Even though a certificate issued by the Tahsildar, Gudiyatham, dated 06.07.2016 has been produced by the learned counsel for the appellant, since we are in the year 2025, at this

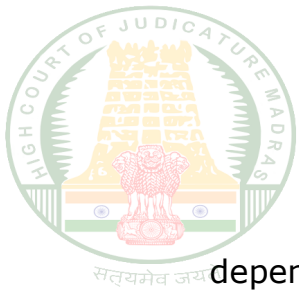


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stage, whether such circumstances is still prevailing could be verified by the respondent Department and accordingly, a decision could be made.

8. Insofar as the conditions which have been quoted in the impugned order before the Writ Court dated 14.12.2021, that only in the circumstances where the original compassionate appointment seeker dies, the said application could be transferred to the other legal heirs, may not be the situation in all cases, as that situation was mentioned only if the original employment seeker dies. That does not mean that, among the legal heirs if such application was originally filed within the time frame, the same could not at all be transferred. If such an interpretation is given to the said Clause of G.O.(Ms)No.18, as sought to be given by the respondent Department through the impugned order dated 14.12.2021, which has been accepted by the Writ Court vide order dated 22.07.2022, the very right of all the legal heirs of the deceased employee to seek such compassionate appointment according to their convenience would be defeated, as, if more than one legal heir is available, among the legal heirs, if one such legal heir would be entitled to seek such compassionate appointment, the change of nominee among the legal heirs is the prerogative to the family,



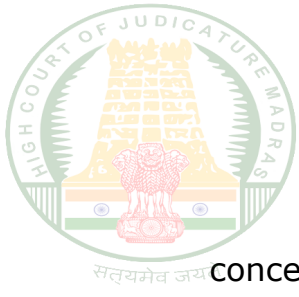
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depending upon the situation of the family.

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9. Therefore, such interpretation cannot be given on the said Clause that has been mentioned in G.O.(Ms)No.18 dated 23.01.2020. Since the impugned order before the Writ Court dated 14.12.2021 was issued only on such reasoning, which has been accepted by the Writ Court, we are not inclined to accept such reasoning given by the second respondent as well as the Writ Court in rejecting the plea of the appellant to consider the application seeking compassionate appointment on the one and only ground cited therein.

10. Accordingly, the impugned order passed by the Writ court is liable to be interfered with. Resultantly, the impugned order is set aside. Consequently, the order impugned before the Writ Court dated 14.12.2021 is also set aside. As a result, there shall be a direction to the respondent Department to reconsider the application submitted originally by the son of the deceased employee, which has been transferred subsequently with the nominee as one of the daughter of the deceased employee, that is the appellant herein, and while considering the same, it is open to the respondent Department to seek a fresh certificate from the



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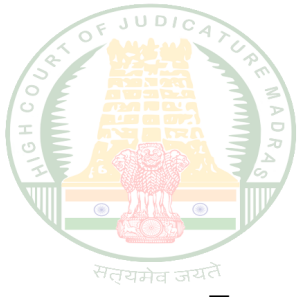
concerned Tahsildar with regard to the present status of the family of the appellant, as to whether they are still in indigenous circumstances, to consider the application for grant of compassionate appointment and accordingly, a decision could be arrived at, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

11. With these directions, the writ appeal stands disposed of. However, there shall be no order as to costs.

(R.S.K., J.) (A.D.M.C., J)
10.03.2025

Neutral Citation:Yes/No

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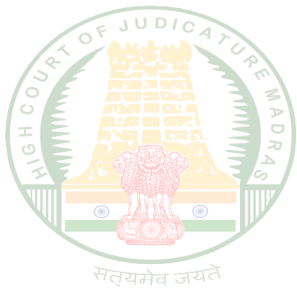


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R. SURESH KUMAR, J.
AND
A.D.MARIA CLETE, J.
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