

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.563 of 2015
and
M.P.No.1 of 2015

1. The Government of Tamil Nadu,
rep by its Secretary,
Education Department,
Fort St. George,
Chennai-9.
2. The Director of School Education,
Chennai-600 006.
3. The District Educational Officer,
Kovilpatti,
Turicorin District.

...Appellants

Vs.

C.Muthu Saravanan

...Respondent

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 22.09.2014 made in W.P.No.21049 of 2014.

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records on the file of the third respondent bearing Na.Ka.No.1389/A1/2012, dated 17.07.2013 and quash the same and consequently, direct the 1 to 3 respondents to appoint the petitioner in a suitable post in the Department of Education.

For Appellants : Mr.K.Karthikeyan, GA

For Respondent : Mr.E.Martin Jayakumar

JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

Questioning the legality and propriety of the order dated 22.09.2014 passed in W.P.No.21049 of 2014, the respondents therein have filed this appeal primarily on the ground that a member of the family of the writ petitioner's father, who died in harness on 11.09.2001, was in service and as such, under the State policy, the writ petitioner was not entitled to claim for appointment on compassionate ground.

2. The facts in brief are that the father of the writ petitioner died in harness on 11.09.2001, leaving behind his widow, two daughters and two sons. After obtaining no objection certificates from his mother, two sisters and a brother, the writ petitioner made an application on 06.05.2002 for consideration for appointment on compassionate ground. That application was rejected by order dated 03.06.2002 on the ground that the second and third heirs, i.e., daughters, remained unmarried and deserve appointment on compassionate ground and the petitioner is the fourth heir. Since the application has been made by the fourth heir and not by the second and third heirs, the writ petitioner is not entitled for compassionate appointment. Thereagainst, O.A.No.5150 of 2012 was filed before the Tamil Nadu Administrative Tribunal and it was transferred to this Court and renumbered as W.P.No.8402 of 2007. The writ petition was allowed with a direction to consider the case of the writ petitioner. Thereafter, the impugned order dated 17.7.2013 was passed by the District Educational Officer, rejecting the case of the petitioner, stating that the brother of the writ petitioner is well positioned to earn money and to look after his family. The same was under challenge in the writ petition.

3. The learned Single Judge, after hearing both sides, allowed the writ petition, noting the fact that it is not the case of the third respondent, District Educational Officer that the brother of the writ petitioner is employed in Government service and he is also supporting the family of the deceased employee.

4. On a perusal of the pleadings and documents appended thereto, it is evident that the application of the writ petitioner for appointment on compassionate ground was rejected, not on the ground that his brother, viz., Arunkumar, B.E., is already in employment and supporting the family, but on other ground that " Mr. Arunkumar, B.E., is well positioned to earn money and to look after his family," as observed in the rejection order. This only indicates the capability of the writ petitioner's brother and not the fact of his employment elsewhere.

5. The stand of the appellants subsequently before us that the writ petitioner's brother is already in service and as such, the writ petitioner is not entitled to grant of appointment on compassionate ground is sans any basis and as such, the learned Single Judge rightly observed that there is no finding that the writ petitioner's brother is employed in Government service and is supporting the family of the deceased employee.

6. As a sequel, we do not find any infirmity, illegality or irregularity in the order rendered by the learned Single Judge, which is sought to be impugned in this writ appeal.

7. Resultantly, the writ appeal fails and is accordingly dismissed. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vvk

To

1 The Secretary,
The Government of Tamil Nadu,
Education Department,
Fort St. George,
Chennai-9.

2 The Director of School Education,
Chennai-600 006.

3 The District Educational Officer,
Kovilpatti,
Turicorin District.

1 CC to Mr.E.Martin Jayakumar, Advocate SR.No. 19778

1 CC to the Government Pleader, SR.No. 19409

EV (CO)
PSI (17.04.2015)

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