

In the High Court of Judicature at Madras

Dated: 06.08.2015

Coram:

The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND
The Honourable Mr.Justice K.K.SASIDHARAN

W.A.No.621 of 2015
& M.P.No.1 of 2015

1. The Director of School Education
Chennai-600 006.
 2. The District Educational Officer
Tirupathur
Vellore District. .. Appellants/Respondents
- vs.
- R. Jaishankar .. Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 09.09.2014 in W.P.No.20552 of 2014 on the file of this Court.

Prayer in WP.No.20552/2014: This Writ Petition is filed under Article 226 of the Constitution of India Praying for issuance of Writ of Certiorarified Mandamus to Call for the records on the file of the First respondent in Proceedings Na.Ka.No.30783/J1/2008 dated 27.02.2014 and quash the same as illegal incompetent and without jurisdiction and further direct the respondents to reconsider the petitioner providing with an appointment on compassionate grounds.

For Appellant : Mr.Karthigeyan
Government Advocate

For Respondent : Ms. R. Poornima

JUDGMENT

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

The learned Trial Judge after setting aside the order passed by the Director of School Education, directed the appellants to provide employment to the respondent on compassionate grounds. The order dated 9 September 2014 in W.P.No.20552 of 2014 is under challenge in this intra court appeal.

2. Heard the learned counsel for the appellants and the learned counsel for the respondent.

3. The father of the respondent by name Ramakrishnan worked as Secondary Grade Teacher. He died in harness on 16 December 1991. The deceased had two wives. The respondent is the son born through his second wife. The first wife left the family even during the life time of Thiru Ramakrishnan and the same resulted in contracting the second marriage. The elder brother of the respondent initially filed an application for compassionate appointment. During the currency of the application, Thiru Yuvaraj, the elder brother of the respondent died on 1 January 1999. Thereafter, the respondent filed an application for compassionate appointment in continuation of the earlier application.

4. The application was rejected by the Director of School Education primarily on the ground that it was made after a period of twenty two years.

5. The learned Single Judge found that the brother of the respondent initially filed an application for compassionate appointment within the statutory period. His application was registered vide Sl.No.575 . Before maturing the application, he died on 1 January 1999. The respondent immediately filed an application in 2000 itself. The application was rejected by proceedings dated 3 August 2007. The order was challenged in W.P.No.818 of 2008.

6. The learned Single Judge set aside the order and directed the appellants to consider the matter afresh. The said order was challenged in W.A.No.2692 of 2010. The Division Bench upheld the order passed by the learned Single Judge. The first appellant thereafter considered the matter afresh and once again rejected it on the ground that the respondent is not in indigent circumstances and as such he is not entitled to claim compassionate appointment.

7. The primary contention taken by the appellant relates to the delay in making the application. The application submitted by the respondent in 2000 should be considered as a continuation of the application made by his brother immediately after the death of his

father. The application was registered as per Sl.No.575. It was only on account of the death of Thiru Yuvaraj, the respondent in his capacity as the younger brother made an application in 2000. We are therefore of the view that the application was not a belated one. The learned Single Judge considered the factual matrix and rightly directed the appellants to provide employment to the respondent. No other points were argued before us by the appellants.

8. This is a second round of litigation to drag the respondent from pillar to post. We are, therefore, of the view that no interference is called for in the order passed by the learned Single Judge.

9. In the result, the intra court appeal is dismissed. Consequently, the connected MP is closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Director of School Education
Chennai-600 006.
2. The District Educational Officer
Tirupathur
Vellore District.

+1 cc to Mr.R.Poornima Advocate sr.40860
+1 cc to Government Pleader vide sr.40818

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W.A.No.621 of 2015

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