

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2015

CORAM

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

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.640 of 2015

and

M.P.No.1 of 2015

- 1.Tamil Nadu Civil Supplies Corporation,
represented by its General Manager (Administration),
No.15, Thambusamy Road,
Kilpauk, Chennai-600 010.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Vellore Region,
Vellore. ... Appellants
- Vs.
- S.Sathish Kumar ... Respondent

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 23.04.2014 passed in W.P.No.16230 of 2012.

This writ petition is preferred under Article 226 of the constitution of India praying for the issue of a writ of certiorarified mandamus Calling for the records on the file of the second respondent relating to the impugned order herein bearing reference No.Na.Ka.No.E3/1761/ 2010 dated 22.12.2011 and on the file of the first respondent relating to the impugned order dated 11.4.2012 bearing reference AE9/ 106/358/ 2010 and quash the same and consequently direct the respondents to consider and grant the petitioner appointment of compassionate basis in any suitable regular post.

For Appellants : Mr.C.Munusamy

For Respondent : Mr.D.Bharathachakravathy

JUDGMENT

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

Challenging the legality and validity of the order dated 23.04.2014 passed in W.P.No.16230 of 2012, whereunder a direction was issued to the appellants / respondents therein to appoint the writ petitioner / respondent herein on compassionate basis, within a period of twelve weeks from the date of receipt of a copy of the order.

2. The facts in brief are that the deceased father of the writ petitioner was initially appointed as temporary watchman on 10.01.1987 on consolidated pay of Rs.200/- per month. Thereafter, he was regularized in the regular post on the pay scale of Rs.4800-10000/- with grade pay of Rs.1300/-, by order dated 27.11.2009 and was posted accordingly at Vellore Region with effect from 07.12.2009. The deceased father of the petitioner died in harness on 18.02.2010, leaving behind his wife, the writ petitioner (son) and a daughter and another son. The second son and daughter were minors. The writ petitioner made, accordingly, an application for compassionate appointment. The same was rejected by proceedings dated 22.12.2011 on the ground that the father of the writ petitioner did not complete probation period after regularisation. Being aggrieved, the writ petitioner has come up with the writ petition, challenging the impugned order dated 22.12.2011 and seeking to quash the same and to consider and grant the writ petitioner appointment on compassionate basis.

3. The regularization of the writ petitioner's father in the regular post is not in dispute, but whether he was regularized on probation or there was simplicitor regularisation. The appellants have not produced any document to establish that regularisation of the writ petitioner's father was on probation and as such, the application of the writ petitioner was wrongly rejected that the father of the writ petitioner died in harness during his probation. The learned Single Judge, relying on several decisions of this court, held that the writ petitioner was entitled to consideration for appointment on compassionate basis.

4. We have heard the learned counsel appearing for the appellants and also examined the papers.

5. There is no material on record to indicate that the appointment of the writ petitioner's father after regularization was on probation. Normally, in a case where regularisation of a temporary employee is made, there is no probation as the employee had already completed the service in the capacity of temporary employment unless contrary is ordered or proved. The fact that the

writ petitioner's father was appointed as temporary watchman on 10.1.1987 and continued thereafter, is not disputed. In such view of the matter, the order of the learned Single Judge does not suffer from any infirmity, illegality or irrationality, warranting interference.

6. Resultantly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The General Manager (Administration),
Tamil Nadu Civil Supplies Corporation,
No.15, Thambusamy Road,
Kilpauk, Chennai-600 010.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Vellore Region,
Vellore.

1 cc to Mr. Sai Bharath & Ilan, Advocate, Sr. 23112

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