

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.11084 of 2015

A.Francis

.. Petitioner

Vs.

1.The District Revenue Officer,
Villupuram, Villupuram District.

2.The Thasildar,
Tirukoilur, Tirukoilur Taluk,
Villupuram District.

3.The Revenue Divisional
Officer, Tirukoilur Taluk,
Villupuram District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the first respondent and quash the order of the first respondent dated 31.12.2012 in proceedings in Na.Ka.No.A4/29181/2012 seeking job on compassionate grounds and thereby directing the first respondent to appoint the petitioner as Village Helper on compassionate ground retrospectively from 01.01.2013.

For Petitioner

सत्यमेव जयते .. Mr.S.Srinath

For Respondents

.. Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader

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ORDER

This writ petition has been filed by the petitioner, challenging the impugned order dated 31.12.2012 issued by the first respondent - District Revenue Officer, Villupuram, the first respondent herein, rejecting the request of the petitioner for compassionate appointment on the ground that he was not only overaged but was 41 years at the time of considering his application for appointment on compassionate ground.

2.The learned counsel for the petitioner would submit that the petitioner's father late Mr.Anthonysamy met with untimely death on 24.06.2008 while serving as Village Assistant. Till his death, the deceased was maintaining his family. Immediately after the death of the deceased, the petitioner applied for the post of Village Assistant on compassionate grounds, stating that he finds it difficult to run the family consisting of five daughters and one son. His wife is also affected by diabetes. The second respondent vide his proceedings in Mu.Mu.A3/3316/2012 dated 20.03.2012 also recommended the name of the petitioner for the post of Village Helper to the first respondent. While so, the first respondent, by order dated 31.12.2012 rejected the request of the petitioner for appointment on compassionate ground, on the ground that the petitioner crossed the age of 35 years as on 24.06.2008 and the maximum age limit as per G.O.Ms.No.9 Labour and Employment (Q1) Department dated 19.01.1998 is 35 years. According to the petitioner, his request for appointment on compassionate ground should have been considered positively although he has crossed 41 years of age. By the impugned order dated 31.12.2012, the first respondent simply rejected the request of the petitioner on the premise that he reached 41 years on the date of consideration of his application and no other reason has been assigned with regard to indigenous circumstances in which the petitioner has been put in for quite a long time. Therefore, the petitioner seeks to set aside the impugned order of the first respondent.

3.The learned counsel for the petitioner, placing reliance on the judgment of this Court in the case in C.Jayapal Vs. The Director of Medical Education, Chennai - 10 and others (2005 (5) CTC 655), submitted that while considering the similar issue, this Court referred to the letter in Letter No.46571/N1/82-3 dated 24.11.1982, which clarified the question of age relaxation in the case of Scheduled Caste and Scheduled Tribe. In the said letter, it has been clarified that the dependants of deceased Government Servants (belonging to Scheduled Caste/Scheduled Tribe) can be appointed on compassionate grounds in relaxation of age rule, even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual. Moreover, in para 3 of the Government Order in G.O.Ms.No.155 L & E dated 16.07.1993, it is stated that when a dependant of the family is employed, the factors to be ascertained are, whether he is regularly employed and is already supporting the family; if the person was employed even before the death of the Government Servant and was living separately without extending any help to the family, then the case of other eligible dependant should be considered. Concluding his arguments, the learned counsel further submitted that the above judgment also further clarified that the age limit prescribed in the said rules can be relaxed if the applicant belongs to Scheduled Caste/Scheduled Tribe.

4.Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents placed on record the Government Order in G.O.Ms.No.9 Labour and Employment Department dated 19.01.1998 and submitted that for Scheduled Caste/Scheduled Tribe candidate, the age limit prescribed for compassionate appointment is 35 years. Since the petitioner was overaged even in the year 2012 i.e. 41 years, he is ineligible for appointment on compassionate grounds.

5.Heard the submissions of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

6.This Court is unable to accept the arguments of the learned counsel for the petitioner. In C.Jayapaul's case relied upon by the learned counsel for the petitioner, considering the fact that the petitioner therein was aged 31 years at the time of approaching this Court and considering other facts and circumstances of the case, a direction was granted to the respondents therein to appoint the petitioner therein on compassionate grounds. But in the present case, the petitioner was already overaged. The impugned order also specifically mentions that he was aged 41 years in 2012. As on today, the petitioner is aged 45 years and therefore, this Court is unable to entertain the prayer sought for in the writ petition. This Court finds no merit in the writ petition. Hence the writ petition fails and accordingly, it is dismissed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

सत्यमेव जयते Sub Asst. Registrar

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To

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1.The District Revenue Officer,
Villupuram, Villupuram District.

2.The Thasildar,
Tirukoilur, Tirukoilur Taluk,
Villupuram District.

3.The Revenue Divisional
Officer, Tirukoilur Taluk,
Villupuram District.

1 cc to Mr.S. Srinath, Advocate, Sr. 21211
1 cc to Government Pleader, sr. 21255

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