

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.PAUL VASANTHAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.A.No.2441 of 2012
and
M.P.No.1 of 2012

1. The Engineer in Chief (WRO)
and the Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-5.
2. The Chief Engineer, WRO,
Design, Research & Construction Support,
Public Works Department,
Chepauk, Chennai-5.
3. The Superintending Engineer/Director,
Institute of Hydraulics and Hydrology,
Poondi-602 023,
Trivellore District.
4. The Deputy Director,
Institute of Hydraulics and Hydrology,
Poondi - 602 023,
Trivellore District.

...Appellants/Respondents

Vs. 
सत्यमेव जयते

E.Ekambaram

...Respondent/Petitioner

Writ Appeal is preferred under Clause 15 of the Letters Patent
against the order dated 26.09.2011 made in W.P.No.8816 of 2011.

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent's proceedings in letter No.84 (1)/66746/08, dated 18.01.2010 which was communicated in 4th respondent's proceedings in letter No.E1/129/10, dated 15.03.2010 and quash the same and directing the respondents to provide employment to the petitioner in any one of the suitable post on compassionate ground in the 4th respondent's office.

For Appellants : Mrs.A.Shrijayanthy
Special Government Pleader

For Respondent : Mr.M.Muthappan

JUDGMENT
(Delivered by N.PAUL VASANTHAKUMAR, J)

Heard Mrs.A.Shrijayanthy, learned Special Government Pleader appearing for the appellants and Mr.M.Muthappan, learned counsel appearing for the respondent.

2. This writ appeal is filed against the order made in W.P.No.8816 of 2011, dated 26.9.2011, wherein the respondent has challenged the order passed by the 1st appellant dated 18.1.2010, which was communicated by the 4th appellant on 15.3.2010 and prayed for providing employment to the respondent in any one of the suitable post on compassionate ground in 4th appellant's office.

3. The said claim of compassionate appointment was made by the respondent on the ground that the respondent's father A.Elumalai while working as Carpenter in 4th appellant's office, he died on 08.4.1986 and based on the same, the respondent's mother applied for compassionate appointment seeking employment to the respondent on 20.6.1987, as the respondent was minor at that time. After attaining majority, the respondent has also made representation on 23.9.1999 for compassionate appointment. Since the appellants have not considered the claim of the respondent's mother which was made as early as on 20.6.1987 and the claim of the respondent made on 23.9.1999, the respondent filed the writ petition with the above said prayer.

4. The writ petition was opposed by the 4th appellant by filing counter-affidavit, sustaining the order of 1st appellant in rejecting the claim seeking compassionate appointment. In the counter-

affidavit, it is stated that the respondent was the last son among five children and the brother of the respondent was working as Carpenter in the 4th appellant's Division from 01.1.1982 onwards i.e. prior to the death of respondent's father.

5. The learned single Judge, by referring to the portion of the letter dated 11.10.1995, set aside the order impugned and disposed of the writ petition with a direction to the appellants to consider the claim of the respondent for compassionate appointment without reference to limitation and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order. Aggrieved over the same, the appellants have filed the writ appeal.

6. It is not in dispute that on the date when the respondent's father A.Elumalai died while in service, one of his brother was in employment in the 4th appellant's Division and earning salary. No document was produced by the respondent to show that the brother of the respondent, who was employed before the death of respondent's father was living separately and not looking after the family at the time of death of the respondent's father.

7. Under the Scheme of compassionate appointment, if already a member of the family is in Government service, even though the father of the children died, no other member is entitled to get compassionate appointment for the death of deceased father. Therefore, there is no merit in the writ petition and the order of the learned single Judge is liable to be set aside.

8. In the result, writ appeal is allowed. No costs. Consequently, M.P.No.1 of 2012 is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

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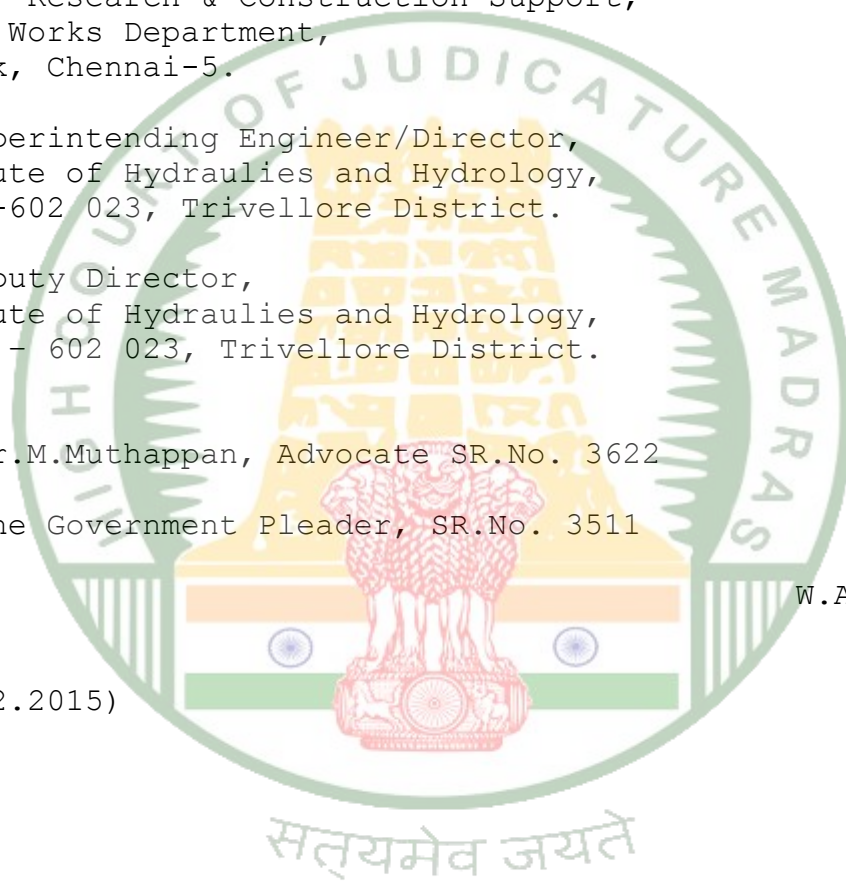
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1 CC to Mr.M.Muthappan, Advocate SR.No. 3622

1 CC to the Government Pleader, SR.No. 3511

W.A.No.2441 of 2012

CA (CO)
PSI (13.02.2015)



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