

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.4028 of 2015
and
M.P.No.1 of 2015

G.Parthiban

...Petitioner

Vs

- 1.The Secretary to Government,
Tamilnadu Labour and Employment (G1) Department,
Fort St.George, Chennai -9.
- 2.The District Collector,
Vellore District, Collections' Officer,
Vellore - 600 009.
- 3.The Tahsildar,
Taluk Officer, Wallajah.

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified mandamus, calling for the records of the 2nd respondent pertaining to his order cum proceedings No.R.C.(m5)18578/14 dated 07.10.2014 and quash the same and to direct the respondents 2 and 3 to reconsider the request of the petitioner dated 18.09.2013 for any suitable job in any department on compassionate ground after giving relaxation of upper age limit.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.M.S.Ramesh
Addl.Govt.Pleader

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O R D E R

This writ petition is directed against the order dated 07.10.2014, whereby and where under, the application submitted by the petitioner for compassionate appointment was rejected by the second respondent on the ground that he was over aged as on the date on which application was made for appointment.

2. The petitioner is the son of Thiru.S.Govindaraj. Thiru.Govindaraj worked as Village Administrative Officer. The father of the petitioner died in harness on 21.08.2013. The petitioner obtained a degree in M.A. from University of Madras and registered his name before the Employment Exchange, Vellore. The petitioner submitted an application for compassionate appointment on 18.09.2013. The application was rejected by the second respondent on the ground that the petitioner is over aged. The said order is under challenge in this writ petition.

3. The learned counsel for the petitioner by placing reliance on the decision of the Division Bench of this Court dated 27.10.2005 in W.P.No.744 of 2002 contended that in similar circumstances, the Division Bench having found that the Government relaxed the condition regarding age, issued a direction to the Government to extend the benefits to the petitioner therein. The learned counsel produced another order dated 23.08.2011 in W.P.No.6082 of 2011 in support of his contention that this Court earlier directed the Government to relax the condition with regard to upper age limit in the case of Scheduled Caste candidate.

4. I have also heard the learned Additional Government Pleader on behalf of the respondents.

5. There is no dispute that the Government Order in G.O.Ms.No.9 Labour and Employment Department, dated 19.01.1998 provides that upper age limit for Scheduled Caste candidate is 35 years. The petitioner was over aged by 2 months and 15 days as on the date on which he made application for compassionate appointment. The second respondent rejected the application by following the Government Order in G.O.Ms.No.9 L & E Department, dated 19.01.1998.

6. The Government appears to have relaxed the condition with regard to age in the case of an applicant by name R.R.Chandrasekaran aged about 38 years. The said applicant was appointed on compassionate ground as Junior Assistant in the Tamil Nadu

Ministerial Service, by giving relaxation. The said order in G.O.(I) No.785 dated 30.12.1996 was cited before the Division Bench in W.P.No.6082 of 2011. The Division Bench taking into account the order granting relaxation allowed the writ petition and directed the respondents to provide compassionate appointment to the concerned petitioner. The petitioner is therefore perfectly correct in his submission that he is also entitled to age relaxation.

7. The petitioner is a member of downtrodden community. In spite of his social backwardness, the petitioner succeeded in obtaining a degree in Master of Arts from Madras University. The petitioner in his affidavit filed in support of the writ petition stated that he is the only educated member of the family and as such, the entire family is looking upon him to maintain them.

8. It is true that as on the date on which application was made, the petitioner was over aged by two months and 15 days. The order in G.O.(I)No.785 dated 30.12.1996 referred to in paragraph 6 of the order in W.P.No.6082 of 2011 shows that Government is having power to relax the condition with regard to age. Since the petitioner is also similarly situated like R.R.Chandrasekaran, the beneficiary of the order dated 30.12.1996 in G.O.(I) No.785 and as he is also a member of the Scheduled Caste Community having required qualification for appointment to the suitable post on compassionate ground, I am of the view that the issue requires consideration by the second respondent in the light of the Government Order in G.O.(I) No.785 dated 30.12.1996 and the decision of the Division Bench dated 23.08.2011 in W.P.No.6082 of 2011.

9. In the result, the impugned order dated 07.10.2014 is set aside and the matter is remitted to the second respondent for fresh consideration. The second respondent is directed to consider the case of the petitioner for compassionate appointment by giving necessary relaxation in the light of the Government Order in G.O.(I) No.785 dated 30.12.1996, G.O.Ms.No.42 Labour and Employment (Q1) Department, dated 12.03.2007 and the decision of the Division Bench dated 23.08.2011 in W.P.No.6082 of 2011. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

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10. The writ petition is allowed as indicated above. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Tamilnadu Labour and Employment (G1) Department,
Fort St.George, Chennai -9.
- 2.The District Collector,
Vellore District, Collections' Officer,
Vellore - 600 009.
- 3.The Tahsildar,
Taluk Officer, Wallajah.

1 CC to Mr.V.Raghupathi, Advocate SR.No. 17081

1 CC to the Government Pleader, SR.No. 17341

सत्यमेव जयते

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and M.P.No.1 of 2015

KK (CO)
PSI (10.04.2015)

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