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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal(MD) No.1106 of 2015

- 1.The Director of School Education,
Chennai 600 006.
 - 2.The Joint Director of School Education,
(Employees Section), Chennai 600 006.
 - 3.The District Educational Officer,
Kulithurai, Kanyakumari District.
 - 4.The District Elementary Educational Officer,
Nagercoil, Kanyakumari District.
 - 5.The Assistant Elementary Educational Officer,
Kulithurai, Nagercoil, Kanyakumari District.
- ... Appellants/Respondents

Vs.

R.Arulamutham ... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 20.03.2014 made in W.P(MD)No.10447 of 2009.

Prayer in WP(MD). 10447/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.8988 A1/96 dated 12-05-2009 and quash the same and consequently directing the respondents to appoint the petitioner as Junior Assistant on Compassionate Ground.

For Appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader.

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent : Mr.B.Saravanan

**JUDGMENT**

(Delivered by **R. SUDHAKAR, J.**)

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This writ appeal is directed against the order dated 20.03.2014 passed by the learned single Judge in W.P.(MD)No.10447 of 2009.

2. According to the respondent, the respondent's father who was working as Secondary Grade Teacher at Government Thangavilasam Elementary School, Palugal, Kanyakumari District died in harness while in service. The respondent made an application seeking appointment on compassionate ground. But he could not be considered for compassionate appointment as he was minor and his brother has not opted to take up the appointment and he chose to go out of India and was working at Dubai on his own volition.

3. Now, the case of the respondent is that the Department has rejected the request for compassionate appointment stating that the respondent was not in indigent circumstances and that his elder brother is employed in Dubai. That was challenged before the learned single Judge who held in favour of the respondent holding that the status of the brother is of no consequence and if the respondent is in indigent circumstances, his case should be considered separately. Hence, the present appeal has been filed primarily contending that the original order of the Department is justified and there is no material to justify that the respondent is in indigent circumstances.

4. It is further submitted that at the time when the case of the respondent was considered, materials were shown and proved that he was in indigent circumstances but his claim was denied only on the ground that his brother was employed in Dubai.

5. The brothers may or may not be together for so many reasons. Merely because one brother is living in a different place on a different occupation eking out his livelihood that cannot not be held against the respondent who admittedly is in indigent circumstances. The individual's claim should be the primary concern of the Department. The department should satisfy itself as to whether the respondent is living in indigent circumstances and is eligible for consequent relief. Therefore, the case of the respondent can be considered for such a claim, ~~senior counsel~~ verification of his claim of living in indigent circumstances.



6.The writ appeal is disposed of in the above terms confirming the order of the learned single Judge. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

1.The Director of School Education,
Chennai 600 006.

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(Employees Section), Chennai 600 006.

3.The District Educational Officer,
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4.The District Elementary Educational Officer,
Nagercoil, Kanyakumari District.

5.The Assistant Elementary Educational Officer,
Kulithurai, Nagercoil, Kanyakumari District.

+1cc to Spl.Government Pleader Sr.No.64126

+1cc to Mr.B.Saravanan,Advocate Sr.No.63489

sms

AA/SKS-RR/17.12.2015/3p-8c

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