

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

CORAM :

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR. JUSTICE P.KALAIYARASAN

W.P.No.4598 of 2014
& M.P.No.1 of 2014

P.Venkatesh

.. Petitioner

Vs.

1. The Registrar
Central Administrative Tribunal
High Court buildings
Chennai 600 104
2. The Govt. of India
rep.by its Deputy Secretary
Government of India
Ministry of Information & Broadcasting
'A' Wing, Shastri Bhavan
New Delhi 110 115
3. The Administrative Officer
Films Division
Government of India
24, Dr.Gopala Rao Desh Mukh Road
Mumbai 400 026

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, call for the entire records relating to the O.A.No.183 of 2012 and quash the impugned order passed by the 1st respondent, the Central Administrative Tribunal, Chennai Bench in order dated 30.4.2013 in O.A.No.183 of 2012 and direct the 2nd and 3rd respondents to follow the earlier order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1389 of 2010 dated 10.3.2011 to provide compassionate grounds appointment to the petitioner.

For Petitioner: Mr.K.Jayaraman

For Respondents: Mr.V.Venkatesamy, SCGSC for R2 &
R3
R1 - Tribunal

ORDER

(Order of the Court was made by A.SELVAM, J.)

This writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order dated 30.4.2013 passed in Original Application No.183 of 2012 by the Central Administrative Tribunal, Madras Bench and to quash the same.

2. The petitioner herein, as an applicant, has filed Original Application No.183 of 2012 on the file of the Central Administrative Tribunal, Madras Bench, wherein the present respondent has been shown as sole respondent.

3. It is averred in the Original Application that the father of the petitioner by name Paneerselvam has served as an Accountant in the office of Film Division at Madurai Branch and during his tenure of office, he passed away on 25.5.1996, leaving behind him, his wife, two sons and two daughters. Under the said circumstances, the petitioner has already filed Original Application No.430 of 2007 for getting appointment on compassionate ground, wherein a specific direction has been given and even after specific direction, the respondents have not considered the request of the petitioner and therefore he has filed Original Application No.183 of 2012 on the file of Central Administrative Tribunal, Madras Bench.

4. The Central Administrative Tribunal, Madras Bench, after considering the fact that the present Original Application is nothing but a third round of litigation and also after considering the report of Screening Committee, has dismissed the Original Application No.183 of 2012 by way of passing the impugned order and in order to quash the same, the present writ petition has been filed.

5. The learned counsel appearing for the writ petitioner has contended to the effect that the father of the writ petitioner has served as an Accountant in the office of Film Division at Madurai Branch and during his tenure of office, he passed away on 25.5.1996. Under the said circumstances, the petitioner has applied to the respondents 2 and 3 for getting appointment on compassionate ground and even though various efforts have been taken by the petitioner, the respondents 2 and 3 have not conceded the demand made by the petitioner and ultimately filed Original Application No.183 of 2012. The Central Administrative Tribunal, Madras Bench, without considering the available records, has erroneously dismissed the Original Application No.183 of 2012 by way of passing the impugned order and the same is liable to be quashed.

6. Per contra, the learned counsel appearing for the respondents 2 and 3 has contended that on the basis of the representations given by the petitioner, various efforts have been taken and ultimately the Screening Committee has given a report to the effect that the elder brother of the petitioner has been serving in a private concern and thereby earning monthly emoluments and under the said circumstances, the request of the petitioner has been rightly rejected. The Central Administrative Tribunal, after considering the overall evidence available on record, has rightly dismissed the Original Application by way of passing the impugned order and therefore, the impugned order does not call for any interference.

7. It is an admitted fact that the father of the petitioner by name Paneerselvam has served as an Accountant in the office of Film Division at Madurai Branch. It is also equally an admitted fact that he has passed away on 25.5.1996, leaving behind him, his wife, two sons and two daughters including the petitioner.

8. The only defence taken on the side of the respondents 2 and 3 is that the elder brother of the petitioner has been serving in a private concern and thereby earning monthly emoluments so as to support the family of the deceased.

9. In fact, this Court has perused the necessary documents filed on the side of the respondents 2 and 3, wherein in the Salary Certificate dated 19.2.1997 given by Quality Industries, it is mentioned that Ganesan, son of Paneerselvam has been working on daily wages. Subsequently, the very same concern has given a Certificate stating that the said Ganesan is not working in the company. Therefore, it is quite clear that the brother of the petitioner is not having regular monthly income.

10. The entire argument put forth on the side of the respondents 2 and 3 is that already a Screening Committee has been formed and the same has found that the elder brother of the petitioner has been serving in a private concern and also earning monthly emoluments so as to support the family of the deceased. Even as per the documents filed on the side of the respondents 2 and 3, this Court is of the view that those documents are not sufficient for coming to a definite conclusion that the elder brother of the petitioner has been serving in a private concern and also earning monthly emoluments so as to support the family of the deceased.

11. As adverted to earlier, the father of the petitioner has passed away during his service. Only on that basis, the petitioner has attempted to get an employment on compassionate ground. It is also seen from the records that the petitioner

has already filed a similar Original Application, wherein certain directions have been given to the respondents 2 and 3 to consider the representation of the petitioner. In spite of the specific direction given to the respondents 2 and 3, no fruitful action has come out. Under such circumstances, the petitioner has filed Original Application No.183 of 2012 on the file of the Central Administrative Tribunal, Madras Bench, but the Central Administrative Tribunal, without considering the ordeals meted out by the petitioner and also without considering that in the family of the petitioner, nobody is having regular monthly income, has erroneously dismissed the Original Application by way of saying that the present Original Application is nothing but a third round of litigation.

12. The petitioner has filed the Original Application No.183 of 2012 only on the ground of demise of his father during service. Therefore, as per law, he is entitled to get an appointment on compassionate ground and further the reason assigned on the side of the respondents 2 and 3 for rejecting the claim of the petitioner, cannot be accepted.

13. The learned counsel appearing for the respondents 2 and 3 has also contended that there is no vacancy in the office of the respondents 2 and 3.

14. Considering the fact that the petitioner is legally entitled to get an appointment on compassionate ground and also considering that the respondents 2 and 3 are liable to provide the same, this Court is of the view that the order dated 30.4.2013 passed in Original Application No.183 of 2012 by the Central Administrative Tribunal is liable to be quashed.

In fine, this Writ Petition is allowed without cost. The order dated 30.4.2013 passed in Original Application No.183 of 2012 by the Central Administrative Tribunal is quashed and O.A.No.183 of 2012 is allowed without cost. The respondents 2 and 3 are strictly directed to appoint the petitioner in any suitable post, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

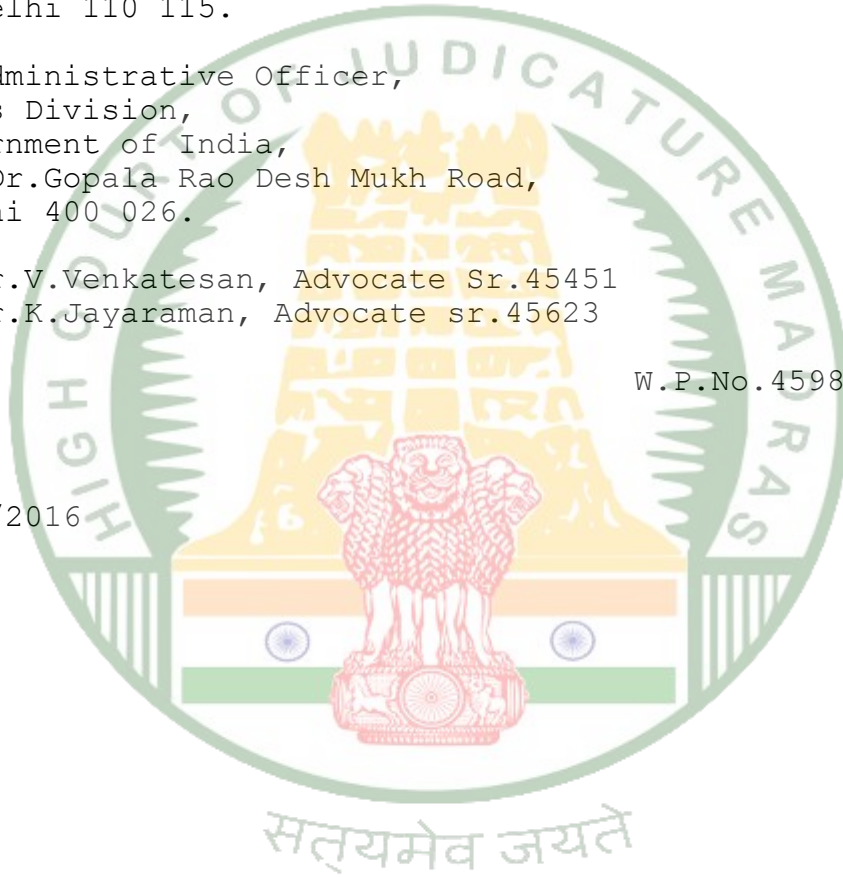
To

1. The Registrar,
Central Administrative Tribunal,
High Court buildings,
Chennai 600 104.
2. The Deputy Secretary,
Government of India,
Ministry of Information & Broadcasting,
'A' Wing, Shastri Bhavan,
New Delhi 110 115.
3. The Administrative Officer,
Films Division,
Government of India,
24, Dr.Gopala Rao Desh Mukh Road,
Mumbai 400 026.

+1cc to Mr.V.Venkatesan, Advocate Sr.45451
+1cc to Mr.K.Jayaraman, Advocate sr.45623

W.P.No.4598 of 2014

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srg 24/08/2016



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