

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.1623 of 2015
MP.No.1 of 2015

N.Kalayarasan
Petitioner

Vs

- 1.The Secretary, Government of Tamil Nadu
Labour and Employment, Fort St.George, Chennai-9
- 2.The Secretary, Government of Tamil Nadu
School Education Department, Fort St.George, Chennai-9
- 3.The District Education Officer, Nagapattinam
The District Elementary Education Officer
Nagapattinam
Respondent

Prayer:- This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd Respondent in O.Mu.No.3314/A1/2009, dated 29.4.2009 and of the 4th Respondent in O.Mu.No.5194/A1/2014, dated 20.12.2014 and to quash the same and to direct the Respondents to appoint the Petitioner as Junior Assistant or in any other post to which he is eligible on compassionate grounds.

For Petitioner : Mr.T.Aananthi

For Respondent : Mr.S.Gunasekaran, AGP

ORDER

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd Respondent in O.Mu.No.3314/A1/2009, dated 29.4.2009 and of the 4th Respondent in O.Mu.No.5194/A1/2014, dated 20.12.2014 and to quash the same and to direct the Respondents to appoint the Petitioner as Junior Assistant or in any other post to which he is eligible on compassionate grounds.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the Petitioner, his father died on 19.2.2004 after putting in 15 years of service. The Petitioner has made an application on 29.9.2006 for

appointment on compassionate grounds, which was rejected on the ground that there are other senior members available in his family and therefore, he could not have applied. Later on, though the other legal heirs are not employed, they have given no objection certificate for appointing the Petitioner. Hence, the Petitioner again applied along with the no objection certificates of the other legal heirs and it was also rejected on the very same grounds and also stating that at time of filing original application in 2006, he was only a minor. He would further contend that in the decision of the Division Bench of this court reported in 2008-3-LW-155 (State Vs. R.Nagamani and another), the contention of the Respondents that when a qualified elder son is available, the request of the Petitioner, who is the sixth son, cannot be considered has been negated. Hence, the impugned orders are vitiated.

4. The learned Additional Government Pleader for the Respondents, by filing a counter, would contend that at the time when the Petitioner made the first application in 2006, he was only a minor and therefore, he was not given appointment, however, such a condition was clarified in the GO.Ms.No.155, dated 10.12.2014 to the effect that even for the minor persons below 18 years of age, appointment on compassionate grounds can be given on acquiring necessary qualification at that time.

5. This court heard the learned counsel on either side and considered their submissions and also perused the materials placed on record.

6. On a careful perusal of the entire materials, as rightly pointed out by the learned counsel for the Petitioner, the application for compassionate appointment cannot be rejected merely on the ground that there are other senior members in the family, who have not opted to the post. Whereas in this case, the other members of the family have also given no objection certificate to the Petitioner. Further, at the time of applying, no doubt, he was a minor. However, by the above said GO.Ms.No.155, dated 10.12.2014, the said position was clarified. In view of the same, the impugned order is set aside. But, however, as rightly pointed out by the learned Additional Government Pleader for the Respondents, the Petitioner cannot seek the post of Secondary Grade Teacher without completing TET. The Petitioner can only be appointed in any other post if any available on compassionate grounds on his qualification and other requirements and if he is otherwise eligible. Accordingly, the matter is remitted back to the Respondents for consideration afresh, who shall consider the same and pass appropriate orders, within three months from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To:

- 1.The Secretary, Government of Tamil Nadu
Labour and Employment, Fort St.George, Chennai-9
 - 2.The Secretary, Government of Tamil Nadu
School Education Department, Fort St.George, Chennai-9
 - 3.The District Education Officer, Nagapattinam
The District Elementary Education Officer
Nagapattinam
- +1 cc to M/s.T.Ananthi,advocate,sr.47223
- +1 cc to Govt.Pleader,sr.47680.

ug(co)
krd 2/9

WP.No.1623 of 2015

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