

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.17806 of 2014

M.Rajagiri

... Petitioner

Vs.

The District Collector,
Kancheepuram District,
Kancheepuram.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records made in the impugned order dated 13.3.2014 in Na.Ka.No.39963/2013/A4 passed by the respondent, quash the same and further direct the respondent to provide employment to the petitioner for compassionate appointment in any suitable post.

For Petitioner : Mr.S.P.Sudalayandi

For Respondent : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus calling for the records made in the impugned order dated 13.3.2014 in Na.Ka.39963/2013/A4 passed by the respondent, quash the same and further direct the respondent to provide employment to the petitioner for compassionate appointment in any suitable post.

2. The petitioner is the elder son of the deceased late Munusamy, who was employed as a Village Assistant at Anaikundram Village, Maduranthagam Taluk, Kancheepuram District from 9.9.1982 under the control of the second respondent. The petitioner's father died on 15.7.2001 while he was in duty, leaving behind his wife, two daughters and three sons including the petitioner herein as his legal heirs. The petitioner would state that at the time of his father's demise, all of them were minors and his mother was also illiterate and she was not suitable for getting Government job. The petitioner successfully complied his +2 examination

in the year 2005 and applied for compassionate appointment for himself in the year 2004 to the respondent and the concerned Tahsildar and the respondent refused to receive his application on the ground that there was a Government ban for compassionate appointment. The petitioner would further state that the said ban order was revoked in the year 2006 and immediately on 20.11.2006, he once again submitted an application enclosing all the necessary documents for compassionate appointment to the Tahsildar concerned and the Tahsildar also gave reference to his application as 8834/2006/A7 and the same was forwarded to the respondent only on 10.11.2011. Since there was no progress, on behalf of the petitioner, his mother also made a representation to the respondent on 18.09.2012. The petitioner would also state that there is no other earning member in their family either in private employment or working in Government service and in fact, he applied for compassionate appointment within 3 years period prescribed by Government and even after lifting of ban, his application was not considered. Hence the petitioner earlier filed a writ petition in W.P.No.2707 of 2014, which was disposed of by this Court on 30.1.2014 with a direction to the respondent to consider his application within a period of six weeks. While so, the petitioner received a letter from the respondent in Na.Ka.No.39963/2013/A4 dated 13.3.2014, rejecting his request for compassionate appointment informing that the petitioner's application is belated. Hence, the petitioner has come forward with this writ petition.

3. Mr.S.P.Sudalaiyandi, learned counsel appearing for the petitioner would submit that since at the relevant point of time, the petitioner was minor, he was not in a position to submit his application and in fact before 2006, the petitioner has submitted his application immediately after completing his +2 examination and it was refused to be received on the ground that there was a Government ban for compassionate appointment.

4. Heard the submissions of Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the respondent and also perused the materials placed before it.

5. Since the petitioner was minor at the relevant point of time, he was not in a position to submit his application and in fact before 2006, the petitioner has submitted his application immediately after completing his +2 examination and it was refused to be received on the ground that there was a Government ban for compassionate appointment and even after lifting the ban, the petitioner's application was received and no order was passed either on his representation or on the representation submitted by petitioner's mother and only after passing orders in W.P.No.2707/2014, the petitioner's application was considered and rejected by the impugned order stating that the petitioner's application is belated.

6. In the light of the above facts and circumstances, this Writ Petition is partly allowed and the impugned order dated 13.03.2014 in Na.Ka.39963/2013/A4 passed by the respondent is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent shall pass orders within a period of eight weeks from the date of receipt of a copy of this order, taking into consideration of the fact that the petitioner is a minor at the relevant point of time and he has submitted his application even before 2006. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jvm

To

The District Collector,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.S.P.Sudalaiyandi, Advocate, S.R.No.52262

W.P.No.17806 of 2014

RV(CO)
CA(06/10/2016)

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