IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.A.No.1715 of 2012
and
M.P.No.1 of 2012

1. The Special Commissioner and
Commissioner of Commercial
Taxes, Chepauk, Chennai.

2. The Assistant Commissioner (CT)
Namakkal.

3. The Deputy Commissioner (CT)
Salem. .. Appellants / Respondents

Versus

K.J.Kumaravel .. Respondent/ Petitioner

Writ Appeal against the order of this Court dated 11.03.2011 passed in W.P.No.24352 of 2009.

Writ petition filed under Article 226 of the constitution of India to issue a writ of mandamus directing the respondent to consider the representation dt.7.6.2006 made by the petitioner to the respondents and dispose of the same within a time frame as may be fixed by this Court.

For Appellants : Mr.S.Kanmani Annamalai
Additional Government Pleader
(Taxes)

For Respondent : Mr.J.Ganesh

JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh J.,)

This writ appeal is filed as against the order of this Court dated 11.03.2011 passed by the learned Single Judge in W.P.No.24352 of 2009.

2. The brief facts of the case is as follows:

The respondent's father-viz.,K.Jayaraj joined the office of the third appellant as a daily wage employee during the year 1982. He underwent the selection process and joined the duty on 03.01.1983 in the Office of the Assistant Commissioner, Attur (Nagar) and worked till 18.12.2001. Thereafter, he joined the service of the Commissioner of Commercial Taxes (CT), Omalur and worked there from 19.12.2001 to 29.05.2006, i.e., till the date of his death. According to the respondent, his father after serving in the appellant's office for a period of 24 years, died in harness on 29.05.2006. Therefore, the respondent herein submitted a representation seeking appointment on compassionate grounds. When the said representation was pending, the Government issued G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006 ordering to regularize the employees, who were working on temporary basis in various departments of the Government, on their completion of 10 years of service. Accordingly, the respondent herein also sought for regularizing the services of his father as per the said Government Order and to give him appointment on compassionate ground. Since his representation was not considered by the appellants herein, he preferred the writ petition wherein this Court while disposing of the said writ petition, directed the appellants herein/respondents therein to consider the case of the father of the respondent for regularisation of his services on completion of 10 years, i.e., from 07.12.1992 and grant him all the benefits and further directed for the appointment of the respondent herein on compassionate ground, within a period of eight weeks from the date of receipt of a copy of the said order. Being aggrieved by the said order passed by the learned Single Judge, the State is before this Court by filing this writ appeal.

3. We have heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the respondent.

4. The contention raised by the State before this Court is that, as ordered by the learned Single Judge, if the services of the respondent's father is regularised on completion of 10 years from 1992, it will pave way for other individuals to get similar orders, which would ultimately unsettle the settled issues. He further submits that the other casual labourers were given regularization only prospectively after the issuance of the Government Order dated 28.02.2006 only on 11.11.2008. Since the respondent's father was not regularized, the respondent is not entitled to the benefit of appointment on compassionate ground. Accordingly, he prays for setting aside the order passed by the learned Single Judge.

5. On the other hand, the learned counsel appearing for the respondent tried to justify the order passed by the learned Single Judge.

6. Considering the facts and circumstances of the case, insofar as extending the benefit of appointment on compassionate grounds for the respondent is concerned, it is essential that his father's employment ought to be regularised. Therefore, this Court is of the view that since the Government Order was issued as early as on 28.02.2006 and on the said date the respondent's father being alive and in service, the benefit as has been extended to the persons similarly placed like the respondent's father prospectively from 11.11.2008 has to be given.

7. Accordingly, this Court directs the authority concerned to extend the same benefit to the respondent's father from 11.11.2008 and grant the benefit of compassionate appointment to the respondent herein in accordance with law from the said date. It is further directed that if the appellants have not considered the case of the respondent for compassionate appointment till date, the same shall be considered by them and order of appointment be issued to him, subject to verification of the necessary documents, within a period of three months from the date of receipt of a copy of this order.

7. With the above observation and direction this writ appeal is allowed in part. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vj2

To

1. The Special Commissioner and Commissioner of Commercial Taxes, Chepauk, Chennai.

2. The Assistant Commissioner (CT) Namakkal.

3. The Deputy Commissioner (CT)
Salem.

1 cc to Spl.Government Pleader, Sr. 24454
1 cc to Mr.J. Ganesh, Advocate, Sr. 24389

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SR (CO)
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