

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.33560 of 2016

S.Sankar Narayanan

...Petitioner

.vs.

- 1.The State of Tamil Nadu rep.,
by its Secretary to Government,
Revenue Department,
Fort.St.George,
Chennai - 9.
- 2.The State of Tamil Nadu rep.,
by its Secretary to Government,
Labour & Employment (G1) Department,
Fort St.George,
Chennai - 9.
- 3.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Revenue Administration,
Chepauk, Chennai - 5.
- 4.The District Collector,
Kancheepuram District,
Kancheepuram.

...Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to consider the petitioner's claim of compassionate appointment by relaxing the upper age limit for appointment on compassionate grounds and to provide appointment on compassionate grounds within time frame.

For Petitioner : M/s.K.Jenitha

For Respondents : Mr.K.Dhananjayan, Spl.GP.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to consider the petitioner's claim for compassionate appointment by relaxing the upper age limit for appointment on compassionate grounds and to provide appointment on compassionate grounds within a time stipulated by this Court.

3. The case of the petitioner is that his father was appointed as Panchayat Assistant on 28.12.1990 by the Proceedings in Na.Ka.No.145003/1990-5E in Annagramam Panchayat Union, Panruti Taluk. Subsequently, he was appointed as Village Administrative Officer on 28.04.2000 by the 2nd respondent and posted at Cheyyur Village on 31.07.2000. While so, his father died on 31.08.2010 while in service leaving behind his wife, the petitioner and his younger son as his legal heirs.

4. The further case of the petitioner is that immediately after the death of his father, he made a representation on 24.09.2010 to the 4th respondent seeking compassionate grounds appointment through the Tahsildar, Cheyyur, who in turn, forwarded the same to the 4th respondent. Thereafter, the 4th respondent by his Proceedings in Na.Ka.No.35063/2010/A4 dated 08.10.2010 has called for a report with requisite documents in original from the Tahsildar and the same have also been submitted. While so, the 4th respondent by his proceedings in Na.Ka.No.35063/2010/A4 dated 23.12.2015 has sent a letter to the 3rd respondent stating that the petitioner was over aged by 3 months and 22 days for appointment and requested clarification. Subsequently, the 3rd respondent has sent a proceedings in Na.Ka.No.Aku3/2051/2016 dated 15.02.2016 to the 1st respondent to give clarification with regard to relaxation of age for compassionate grounds appointment on mercy grounds. The same is still pending.

5. It is also the case of the petitioner that the Government have relaxed the condition regarding the age while considering similar cases. Though nothing is mentioned in G.O.Ms.No.9, Labour and Employment (G1) Department dated 19.01.1998 about the relaxation of age, it cannot be countenanced, when statutory rules framed under Article 309 of the Constitution of India have conferred power on the authority to grant relaxation of any rules for appointment to a service in such manner, as may appear to him to be just and equitable and thus, the respondents have power to relax the condition of upper

age limit for compassionate grounds appointment. Since the case of the petitioner is not considered till date, the present Writ Petition came to be filed.

6. Learned Counsel for the petitioner would submit that with regard to compassionate grounds appointment, the Government should firstly see as to whether the death of the employee has occurred while he was in service and secondly, the financial needs of the family of the deceased employee should justify the grant of employment in the State on a preferential basis. Further at the time of the death of his father, the petitioner was aged 35 years 3 months 22 days i.e. he was overaged by 3 months and 22 days. The learned Counsel would further submit that since the authorities have got powers to relax the upper age limit, considering the financial status of the family of the deceased, he has to be provided with suitable employment.

7. Heard the learned Special Government Pleader who has taken notice on behalf of the respondents.

8. Considering the submissions made on either side and also considering the facts and circumstances of the case, this Court directs the respondents to consider the petitioner's claim of compassionate appointment by relaxing the upper age limit for appointment on compassionate grounds and to provide appointment on compassionate grounds within a period of eight weeks from the date of receipt of a copy of this Order.

9. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort.St.George, Chennai - 9.

2.The Secretary to Government,
State of Tamil Nadu,
Labour & Employment (G1) Department,
Fort St.George, Chennai - 9.

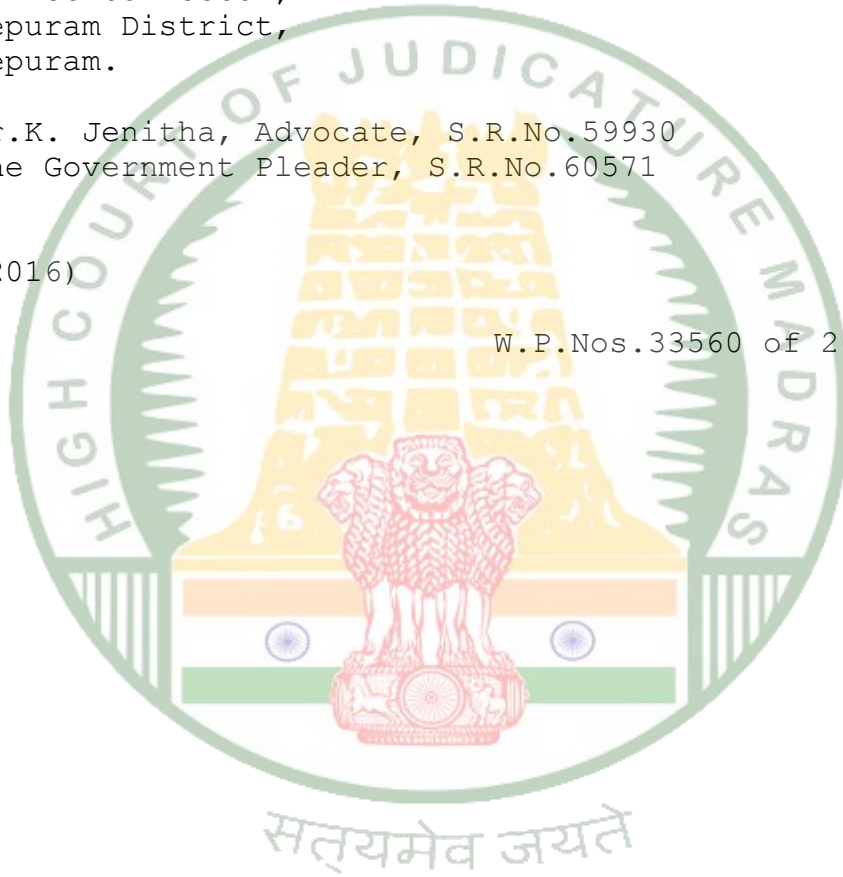
3.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Revenue Administration,
Chepauk, Chennai - 5.

4.The District Collector,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.K. Jenitha, Advocate, S.R.No.59930
+1cc to the Government Pleader, S.R.No.60571

CP(CO)
md(22/11/2016)

W.P.Nos.33560 of 2016



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