

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34925 of 2016
and
W.M.P.No. 30067 of 2016

L.Purushothaman

... Petitioner

Vs.

1. Government of Tamilnadu
rep. by Secretary to Government
School Education Department,
Secretariate,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Nungambakkam,
Chennai - 600 006.
3. The District Educational Officer,
Tiruvanamalai,
Tiruvanamalai District.
4. The District Elementary Educational Officer,
Tiruvanamalai,
Tiruvanamalai District.
5. The Assistant Elementary Educational Officer,
Keelpenathur,
Thiruvanamalai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus to call for the records of the 2nd respondent herein in Pro.Na.Ka.No. 93988/J1/2012 dated 29.12.2012, to quash the same and issue consequential directions to the respondents to appoint the petitioner on compassionate grounds, in any suitable post commensurate with his education, qualification, by granting relaxation, if necessary consequent on the death of Mr.M.Lakshmikanthan, Headmaster, Panchayat Union Elementary School, Rajathope, Keelpenathur Union, Tiruvanamalai District.

For Petitioner : Mr.V.Thirupathi
For Respondents : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

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

2.The writ petition has been filed seeking Certiorarified Mandamus to call for the records of the 2nd respondent in Pro.Na.Ka.No.93988/J1/2012 dated 29.12.2012 and quash the same and issue consequential directions to the respondents to appoint the petitioner on compassionate grounds, in any suitable post commensurate with his education qualification, by granting relaxation, if necessary consequent to the death of his father, Thiru M.Lakshmikanthan, who was working as a Headmaster, Panchayat Union Elementary School, Rajathope, Keelpennathur Union, Tiruvannamalai District.

3. The petitioner's father, Thiru M.Lakshmikanthan, who was serving as a Headmaster, Rajathope, Keelpennathur Panchayat Union Elementary School, had expired on 31.08.2001, leaving behind the petitioner, venkatesan(son), Madhanan(son) and Manjula(daughter), as his legal heirs. The elder brother of the petitioner, Thiru L.Venkatesan got married and began to live separately with his wife without evincing any interest in the family of the petitioner even after getting appointment as Secondary Grade Teacher.

4. Since the burden of maintaining the family fell on the head of the petitioner, on 21.08.2004, he applied for giving appointment on compassionate grounds, to the District Elementary Educational Officer, Keelpennathur, within the prescribed period of three years with all certificates and the same was forwarded by the 5th respondent to the 4th respondent. On the basis of the letter of the 4th respondent in O.Mu.No.1075/a1/07 dated 14.05.2007, the 5th respondent, by his letter in Na.Ka.784/07 dated 25.06.2007, submitted further particulars with recommendation to appoint the petitioner on compassionate grounds as Junior Assistant since the petitioner has passed 12th standard.

5. But after a lapse of more than 5 years, the 2nd respondent in and by Pro.Na.Ka.No.93988/JI/2012 dated 29.12.2012 informed the 3rd respondent that as per G.O.Ms.No.998, Labour and Employment Department, dated 02.05.1981, the request of the

petitioner, on compassionate grounds, can not be entertained, since his elder brother Thiru L.Venkatesan, is gainfully employed as Secondary Grade Teacher in Panchayat Union Elementary School.

6. The said order is unsustainable in law and the said G.O. has been modified and fresh instruction has been issued in G.O.Ms.No.155 dated 16.07.1993 stating that in the event of the elder dependent is employed and living separately without rendering any assistance to the family of the deceased, the other eligible dependent can be considered for appointment on compassionate grounds. Therefore, the petitioner preferred an appeal dated 12.09.2013 to the first respondent/Government in this regard, but the same was not considered so far. Hence, the petitioner has come forward with the present Writ Petition.

7. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

8. Though the petitioner has filed this petition for quashing the impugned order dated 29.12.2012 passed by the second respondent, learned counsel for the petitioner submitted that if direction is given to the first respondent to dispose of the appeal, that would be sufficient.

9. In view of the same, without going into the merits of the claim of the petitioner, this court directs the petitioner to give a copy of the appeal dated 12.09.2013 to the first respondent, along with a copy of this order, within a period of two weeks and on receipt of the same, the first respondent is directed to dispose of the appeal, purely on merits and in accordance with law, within a period of eight weeks thereafter.

10. With the above direction, the present writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Secretary to Government
Government of Tamilnadu
School Education Department,
Secretariate,
Chennai - 600 009.
2. The Director of School Education,
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Nungambakkam,
Chennai - 600 006.
3. The District Educational Officer,
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Tiruvanamalai District.
4. The District Elementary Educational Officer,
Tiruvanamalai,
Tiruvanamalai District.
5. The Assistant Elementary Educational Officer,
Keelpenathur,
Thiruvanamalai District.

+1cc to Mr.V.Thirupathi, Advocate, S.R.No.56741
+1cc to the Government Pleader, S.R.No.57185

W.P.No.34925 of 2016

CA(CO)
CA(21/11/2016)

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