

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.7765 of 2016

R.Sivaraman

.. Petitioner

vs.

The Secretary,
Department of Culture, Tourism
& Endowments,
Government of Tamilnadu,
Fort St.George,
Chennai.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in letter No.14527/Aa.na.mul/2015-1 dated 08.02.2016 and quash the same and thereby direct the respondent to provide the petitioner compassionate appointment to any suitable post.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.K.Dhanjayan,
Special Government Pleader

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order of the respondent in Letter No.14527/Aa.Na.Mul/2015-1 dated 8.2.2016 and direct the respondent to provide the petitioner compassionate appointment to any suitable post.

2. The case of the petitioner is that his brother, namely Thiru.R.Selvam was working as Assistant Section Officer in the Department of Culture, Tourism and Endowment, Government of Tamilnadu and he died on 20.05.2014, while he was in service in the Government of Tamilnadu. The petitioner's brother is the sole bread winner of the family and due to his demise, the petitioner family were living in indigent circumstances and the petitioner was not having employment, though he had studied upto B.A. (History). The petitioner would further state that his

mother died long back and in fact, his brother Selvam, who married one Jansirani also divorced him by a decree of divorce granted in H.M.O.P.No.233/2012 dated 04.03.2014 by the Principal Sub Judge, Villupuram and after divorce, his brother was living along with him and supported the petitioner and his family. Since the petitioner's brother had no issues, the petitioner has made a representation to the respondent dated 23.11.2015 to provide him appointment on compassionate ground in the department in which his brother was working. However, the petitioner's representation was rejected, vide impugned order dated 8.2.2016. Challenging the same, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, Mr.N.Suresh, learned counsel appearing for the petitioner would submit that the respondents had rejected the representation of the petitioner by citing earlier Government Order in G.O.(Ms) No.560, Labour and Employment Department dated 03.08.1977, which says that compassionate appointment could be provided only to the direct legal heirs such as wife/husband/son/unmarried daughter/near relative of the deceased Government servants and cases of "near relatives" such as brothers/sisters etc of the deceased Government servants should be excluded. However, the learned counsel appearing for the petitioner, by relying upon a subsequent Government Order in G.O.Ms.No.34, Labour and Employment (Q1) Department dated 16.04.2002, submitted that as per the said Government Order, unmarried brother/unmarried sister of the unmarried deceased Government Servant who dies in harness while in service, are eligible for appointment on compassionate ground and prays for allowing of this writ petition.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that G.O.Ms.No.34 dated 16.04.2002 would be applicable only if the deceased Government servant died as unmarried person, but the petitioner's brother is a married person and therefore, the petitioner's request for compassionate appointment cannot be considered.

5. Keeping the submissions made on either side, I have gone through the entire materials available on record.

6. In G.O.Ms.No.34, Labour and Employment (Q1) Department dated 16.04.2002, it is clearly stated that appointment on compassionate ground could be given only to unmarried brother/unmarried sister of the unmarried deceased Government Servant who dies in harness while in service. According to the counter of the respondent, as per G.O.(Ms)No.560, Labour and

Employment Department, dated 03.08.1977, compassionate appointment could be provided only to the direct legal heirs such as wife/husband/son/unmarried daughter/near relative of the deceased Government servants and cases of "near relatives" such as brothers/sisters etc of the deceased Government servants should be excluded. Though the petitioner's brother was a married person, he got divorce and had no issues and after divorce, the petitioner and his family was totally dependent on the income of his brother and as on date, except the petitioner, no one is available to seek for compassionate appointment. In these circumstances, I am of the opinion that appropriate direction can be given to the respondents to consider the representation of the petitioner in the light of G.O.Ms.No.34, Labour and Employment (Q1) Department dated 16.04.2002. This Court, in an identical situation in P.Pandi Selvam v. The Chief Engineer - Personnel, Tamil Nadu Electricity Board, Chennai and another [CDJ 2015 MHC 1342], has directed the respondent therein to consider the application of the petitioner therein as a special case. The said judgment is squarely applicable to the facts of the present case.

7. In the result, this Writ Petition is allowed and the impugned order of the respondent in Letter No.14527/Aa.Na.Mul/2015-1 dated 8.2.2016 is set aside and the respondent is directed to consider the representation of the petitioner seeking appointment on compassionate ground in the light of the judgment in P.Pandi Selvam v. The Chief Engineer - Personnel, Tamil Nadu Electricity Board, Chennai and another [CDJ 2015 MHC 1342] and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

jvm

Sub Assistant Registrar

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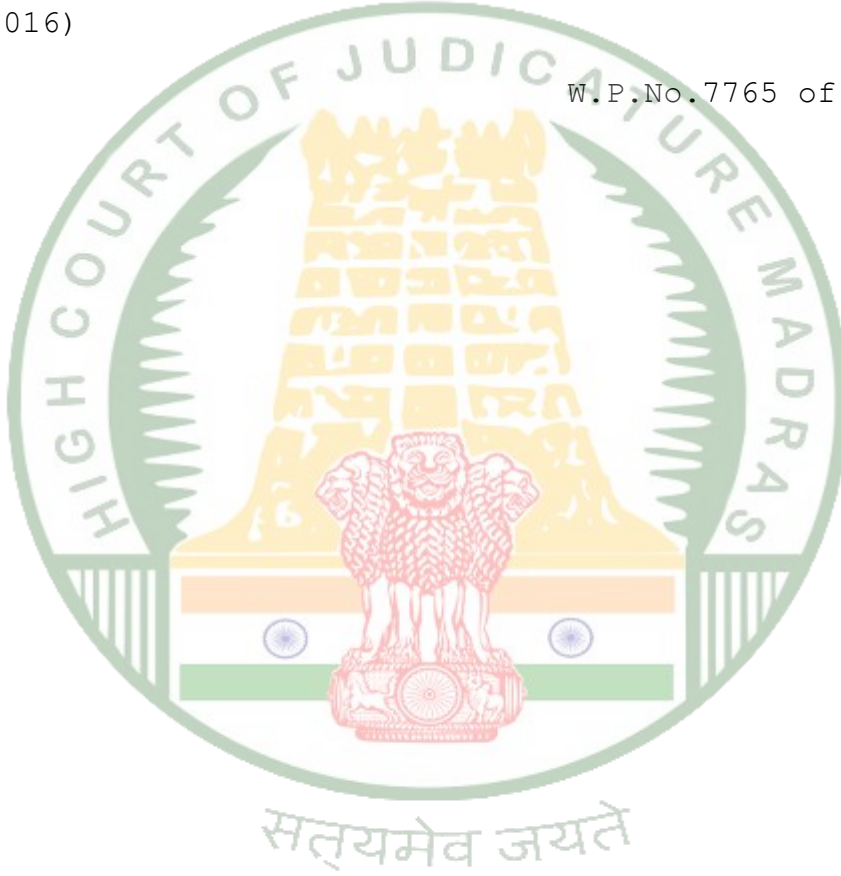
To

The Secretary,
Department of Culture, Tourism & Endowments,
Government of Tamilnadu,
Fort St.George,
Chennai.

+1cc to Mr.N. Suresh, Advocate, S.R.No.61287
+1cc to the Government Pleader, S.R.No.61920

rsi (CO)
md(29/11/2016)

W.P.No.7765 of 2016



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