



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2016

CORAM :

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition (MD) No.10242 of 2015

and

M.P(MD)No.1 of 2015

M.Ramaiah

... Petitioner

Vs.

1.The Director of School Education,
Chennai.

2.The District Educational Officer,
Thoothukudi,
Thoothukudi District.

3.The District Elementary Educational Officer,
Thoothukudi,
Thoothukudi District.

4.The Assistant Educational Officer,
Pudukottai,
Thoothukudi District.

... Respondents

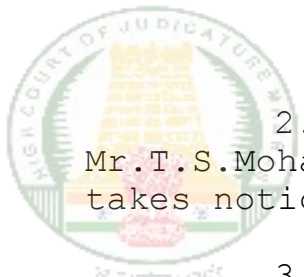
Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire proceedings of the 2nd respondent in his proceeding Muu.Muu. NO. 7729/A1/2004 dated 18.05.2015 to quash the same and direct the respondents to provide any suitable post to the petitioner on compassionate ground in the light of the G.O.Ms.No.155 Labour and Employment Department Dated 16.07.1993 within a time frame stipulated by this Court .

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader.

ORDER

Challenging the proceedings of the second respondent declining to provide a suitable post to the petitioner on compassionate grounds, the present writ petition has been filed.



2. Heard the learned counsel appearing for the petitioner. Mr. T. S. Mohammed Mohideen, learned Additional Government Pleader, takes notice for the respondents.

3. The petitioner's father who was working as Headmaster in Thoothukudi Panchayath Union Elementary School at Mu. Thangamalur Village, died in harness way back on 24.02.2001 leaving behind his wife, two sons and two daughters as legal heirs. Thereafter, the petitioner applied for appointment on compassionate grounds on 09.12.2002.

4. However, the correspondences between various authorities continued for a period of about 13 years and ultimately culminated in an order of rejection on the ground that the petitioner's brother is working as Fireman in the Fire Service Department. Aggrieved over the same, the present writ petition has been filed.

5. Learned counsel for the petitioner draws the attention of this Court to paragraph 3 of Government Order in G.O. (Ms). No. 155, Labour and Employment Department dated 16.07.1993 is as follows:-

"3. In regard to the second condition mentioned in para 1 above, it is considered that if a member of the family is already on employment and supports the family then the restriction may be applied. When a dependent of the family is employed, the factors to be ascertained are, whether he is regularly employed and is actually supporting the family. If that person was employed even before the death of the Government Servant and was living separately without extending any help to the family, then the case of other eligible dependants will be considered".

6. In view of the above said Government Order, if the person was already in employment in the family of the deceased as long as he is not extending any help to the family and he is living separately, any other eligible dependent of the deceased is entitled for appointment on compassionate grounds.

7. To establish the fact that the brother of the petitioner is not taking care of the family though he is in Government service, the petitioner has filed a family card wherein the name of his brother has been removed. The petitioner has also filed notices issued by the petitioner's brother demanding partition of their residence which was purchased by his father. The above documents would clearly go to show that the petitioner's brother is not extending any help to the family of the petitioner.



8. In such circumstances, the employment of the petitioner's brother cannot be a ground to reject the case of the petitioner especially in the absence of any materials to prove that the petitioner's brother was supporting the family.

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9. In the light of the above facts, the impugned order is liable to be set aside and accordingly, it is set aside. The writ petition is allowed. Consequently, the second respondent is directed to consider the case of the petitioner for appointment on compassionate grounds as per G.O.Ms.No.155, dated 16.07.1993 and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

sms

To

1. The Director of School Education,
Chennai.

2. The District Educational Officer,
Thoothukudi, Thoothukudi District.

3. The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.

4. The Assistant Educational Officer,
Pudukottai, Thoothukudi District.

+1CC to Mr.P.Pethu Rajesh Advocate Sr.No.8716

+1CC to Spl.Government Pleader Sr.No.8551

GJM/SKS/RR/25.2.16-3p-7C

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