



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2013

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

W.P. (MD) No.18129 of 2013
and M.P. (MD) No.1 of 2013

M.Ramkumar

... Petitioner

Vs.

- 1.The Director of School Education,
College Road, Chennai - 6.
- 2.The District Educational Officer,
Aranthangi,
Pudukkottai District.

... Respondents

Prayer: This Writ Petition is preferred under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.No.1672/A1/2001 dated 13.06.2013 and to quash the same and consequently to direct the respondents to give the post on the compassionate ground to the petitioner.

For Petitioner	: Mr.T.Thirumahilmaran
For Respondents	: Mr.G.Muthukannan Government Advocate

O R D E R

The petitioner's father Mr.Marimuthu was working as an Assistant in the Higher Secondary School at Meemisal, Aranthangi Educational District at Pudukkottai District. Mr.Marimuthu died on 14.10.1998, while in service. Thereafter, the petitioner made a representation to the respondents seeking employment on compassionate ground on account of the demise of his father. The second respondent by his proceedings in Na.Ka.No.1672/A1/2001 dated 13.06.2013, has rejected the same. Challenging the same, the petitioner is before this Court with this Writ Petition.

2. This Writ Petition has come up today for admission.



3. I have heard the learned counsel for the petitioner and the learned Government Advocate for the respondents. I have also gone through the records carefully.

4. A perusal of the impugned order would go to show that the petitioner has been denied employment on compassionate ground on the ground that the petitioner's brother Mr.Ganesh is working as Secondary Grade Teacher in Panchayat Union School. Thus the petitioner's family is not in penury, requiring helping hand by offering compassionate appointment to the petitioner.

5. The learned counsel for the petitioner would submit that his brother Mr.Ganesh was given in adoption after the demise of his father, as per the customs prevailed in the community. Thus, Mr.Ganesh, no more remains as the legal heir of the deceased, he contended.

6. The said contention in my considered opinion is fallacious. The petitioner has admitted that Mr.Ganesh was one of the legal heirs of the deceased because prior to the demise of Mr.Marimuthu, there was no adoption of Mr.Ganesh with the consent of Mr.Marimuthu and his wife. Therefore, it is not permissible for the petitioner to contend that Ganesh no more remains as legal heir of Mr.Marimuthu.

7. Even to make out a prima-facie case that Ganesh was given in adoption, no document has been produced before this Court. When a specific query is put to the learned counsel for the petitioner as to whether any document is produced to prove the factum of adoption, the learned counsel for the petitioner submitted that the adoption is customary and there is no document for it. This contention cannot be accepted.

8. Further, appointment on compassionate ground is not offered by way of a right, but by way of compassion to rescue the family of the deceased employee from penury. On facts it is to be found by the appointing authority as to whether the family is really in financial constraints and requires assistance by offering employment on compassionate ground.

9. Admittedly, in this case, the petitioner's brother is employed as a teacher and therefore, it is crystal clear that the family of the petitioner is not in penury. When there are several youth of this Country standing in the queue, seeking employment and to compete in the competition to get Government job, the petitioner cannot get Government job through back door entry under the guise of compassionate appointment. In the absence of genuine grounds for employment on compassionate grounds, it is for the petitioner to compete with the others, who are in the queue and get entry into service. That is the reason why the request of the



petitioner for the compassionate appointment was rightly rejected by the second respondent.

10. In view of the same, the Writ Petition fails and the same is accordingly, dismissed. No costs. Consequently, connected M.P.(MD) No.1 of 2013 is also dismissed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1.The Director of School Education,
College Road, Chennai - 6.

2.The District Educational Officer,
Aranthangi,
Pudukkottai District.

+One cc to Mr.M.A.Abdul Wahab, Advocate, SR.No.54869

sj

RL/4 c- 21/11/2013

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