

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.9.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.904 of 2017,
C.M.P.Nos.12598 and 12601 of 2017

1. The District Collector,
Krishnagiri District,
Krishnagiri.

2. The Assistant Director (Panchayats)
Krishnagiri.

Appellants

Versus

R.Rajarathinam

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 22.11.2016 passed in W.P.No.2112 of 2016 on the file of this court. Writ petition filed under Article 226 of the constitution of India praying for the issuance of a writ of certiorarified Mandamus calling for the records relating to the Impugned Proceedings passed in Na.Ka. No.28960/ 2015 dated 12.11.2015 on the file of the 1st respondent herein quash the same consequently direct the respondents herein to provide employment under compassionate grounds to the petitioner within a stipulated period.

For appellants : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

For Respondent : Mr.S.Vinoth Kumar

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent for some time.

2. The writ appeal is filed challenging the order passed by the learned Single Judge granting the relief of direction to the appellants to provide employment to the writ petitioner on compassionate grounds.

3. It appears that the father of the writ petitioner, who was working as Office Assistant in the second appellant office from 5.6.1985 died on 17.4.2015, while in service and the petitioner claimed employment on compassionate grounds. Since the same was rejected by the authorities on the ground that he has crossed the prescribed age limit of 35, his age being 36 years 9 months and 27 days as on the date of death of his father, the writ petition was filed.

4. The stand taken by the learned Special Government Pleader is that age limit for appointment on compassionate grounds is 35 in case of sons and daughters and 50 in case of widow of the deceased and therefore, the case of the writ petitioners does not deserve any consideration.

5. On perusal of the order passed by the learned Single Judge, we find that the learned Single Judge has granted the relief relying upon the precedents, in one of which viz., W.P.No.6082 of 2011, a person aged about 38 years was given appointment on compassionate grounds by giving age relaxation as he belongs to Scheduled Caste and in another case viz., W.P. No.744 of 2003, wherein, it has been observed that vide letter No.46571.N1/82-3 the Labour and Employment Department dated 24.11.1982 clarifies the position that the dependents of deceased Government Servants (belonging to Scheduled Caste/Scheduled Tribe) can be appointed on compassionate grounds in relaxation of age rule, even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual.

6. There cannot be two rules for deciding an issue. The writ petitioner was aged about 36 and odd as on the date of death of his father and hence, he is eligible to get appointment on compassionate ground on the basis of the letter dated 24.11.1982 issued by the Labour and Employment Department. Only on applying such proposition of law on the factual situation, the learned Single Judge has come to the conclusion that the writ petitioner is entitled to employment on compassionate grounds and ordered the writ petition.

7. In the circumstances of the case, we direct the writ petitioner to submit a fresh representation in this regard, within a period of two weeks from the date of receipt of a copy

of this judgment, which shall be considered by the authorities in the light of the letter dated 24.11.1982 issued by the Labour and Employment Department, within a period of two months thereafter. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The District Collector,
Krishnagiri District, Krishnagiri.
2. The Assistant Director (Panchayats)
Krishnagiri.

+ 1 cc to M/s. K. Govi Ganesan, Advocate Sr.64252
+ 1 cc to the Government Pleader SR.64893

W.A.No.904 of 2017

CP(CO)
EU(23/10/2017)

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