

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11970 of 2017

And

WMP No.12852 of 2017

Mr.Prathap

.. Petitioner

vs.

1.The Principal Secretary,
Revenue Administrative Commissioner,
Revenue Department,
Chepauk,
Chennai-600 005.

2.District Collector,
Kancheepuram District Collector Office,
Kancheepuram.

3.District Revenue Officer,
Kancheepuram District Collector Office,
Kancheepuram.

4.The Tahsildar,
Cheyyur Taluk,
Cheyyur-603 302.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the order made in Na.Ka.19144/2016/A4 dated 7.11.2016 on the file of the second respondent and quash the same and consequently directly the second respondent to modify the order providing

compassionate appointment commensuration with petitioner qualification.

For Petitioner : Mr.M.Anandaraj

For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader.

ORDER

The relief sought for in this writ petition is to modify the initial order of appointment so as to provide higher post to the writ petitioner.

2. The District Collector, Kancheepuram in his proceedings dated 7.11.2016, rejected the claim of the writ petitioner to appoint him as Junior Assistant on compassionate ground. The writ petitioner was appointed as Office Assistant on 21.6.2012 on compassionate ground on account of death of his father while in service. Accepting the order of appointment, the writ petitioner joined the post of Office Assistant and thereafter, he filed an application, requesting the respondents to appoint him in the post of Junior Assistant since he has completed Plus Two Course.

3. Compassionate appointment is a scheme formulated in order to mitigate the indigent circumstances caused on account of the sudden demise of a Government Servant while in service. Compassionate appointment can never be conferred as a regular recruitment process so

as to appoint the persons after a long lapse of time.

4. In the case on hand, the case of the writ petitioner is considered based on the indigent circumstances pleaded by him at the time of submission of his application and he was appointed in the available post of Office Assistant. Once he joined in the post of Office Assistant and the case of the writ petitioner was considered, questioning of considering him for the higher post on compassionate appointment cannot be undertaken. The appointment on compassionate ground can never be claimed as a matter of right and it is only on terms and conditions enumerated in the scheme, persons can be appointed. Compassionate appointment, not being a regular appointment under the regular recruitment process, the claim of the writ petitioner for higher post need not be entertained in view of the fact that he was already appointed in the available vacancy and he has accepted the same and working in the post of Office Assistant.

5. Equal opportunity in public employment is the constitutional mandate and there cannot be any discrimination amongst the citizen while providing opportunity for public employment. Compassionate appointment scheme is an exception to the regular process of appointment and thus the authorities are to be cautious while appointing the persons on compassionate ground. All such appointments have to be made within a reasonable period from the date of death of the deceased Government

employee i.e., within 3 years or 5 years, but not later than that. The Government also prescribes the time limit for submission of application, seeking compassionate appointment. The Courts in this regard has repeatedly emphasised that compassionate appointments cannot be made after a lapse of many years since the indigent circumstances after a lapse of few years vanishes and the family is able to survive even after the demise of the deceased Government employee.

6. Such being the principles adopted while considering the cases of the compassionate appointment, the claim of the writ petitioner, seeking higher post is absolutely misconceived and no such claim can be entertained after accepting the appointment in the post of Office Assistant.

7. This Court is of the view that the order of rejection passed by the respondent is in accordance with law and there is no infirmity. In this view of the matter, no further adjudication needs to be undertaken in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

31-07-2017

Speaking Order/Non-Speaking Order.
Index : Yes/No.

Internet : Yes/No.

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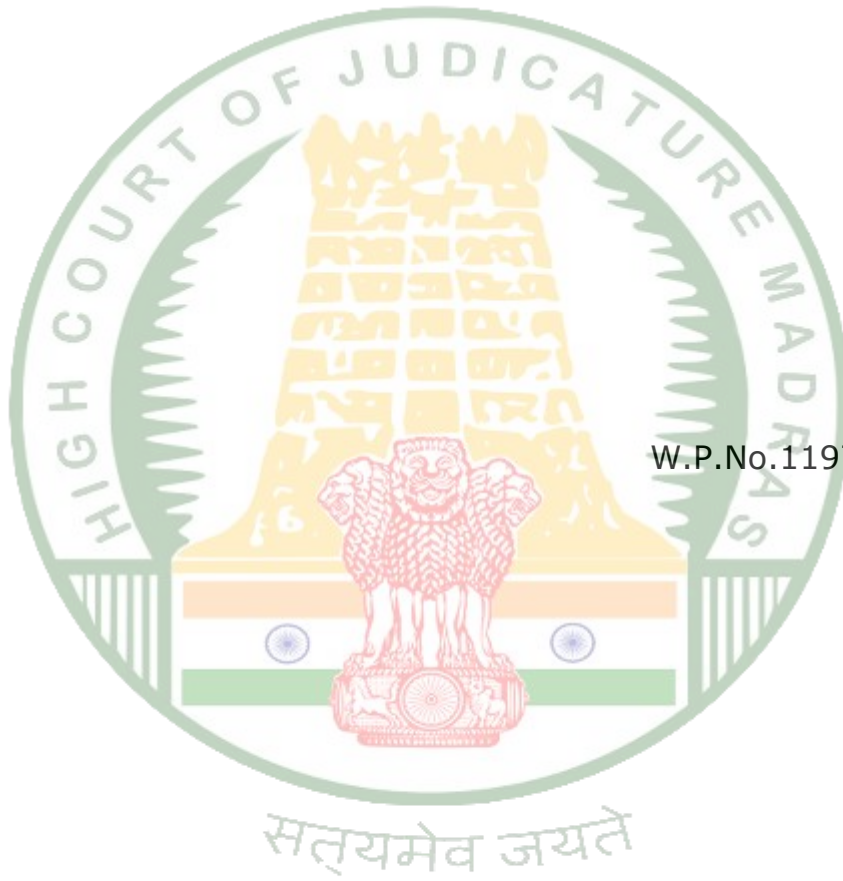
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S.M.SUBRAMANIAM, J.

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