

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.1044 of 2009

Mr.E.Krishnan

... Petitioner

Vs.

1. The Director of Medical Education,
Chetpet, Chennai.

2. The Dean
Chengalpattu Medical College,
Chengalpattu.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to order bearing No.Na.Ka.No.5147/Ne4/2008 dated 03.12.2008 of the 2nd respondent and quash the same and consequently direct the respondent to provide the petitioner's first son Mr.Charles with appointment on Compassionate Ground.

For Petitioner	: Mr.R.Ramesh
For Respondents	: Mr.A.Zakir Hussain Government Advocate

O R D E R

The prayer in the writ petition is for a writ of Certiorarified Mandamus calling for the records pertaining to the order bearing No.Na.Ka.No.5147/Ne4/2008 dated 03.12.2008 of the second respondent and quash the same and consequently direct the respondents to provide the petitioner's first son Charles with appointment on compassionate ground.

2.The petitioner was appointed as Office Assistant on 20.09.1985 at the second respondent's office, where, he worked for nine years. Thereafter, due to loss of sight, he became medically invalidated in the year 1994. Therefore, he had requested the respondents to give compassionate appointment to his wife. The said request of the petitioner was accepted and appointment on compassionate ground was given to the petitioner's wife as Sweeper on 14.11.1995. The petitioner's wife after having put in service for twelve years and three

months suddenly expired on 19.03.2008. Therefore, once again the family of the petitioner has been put under indigent circumstances and penurious conditions as the petitioner since becoming blind has already been medically invalidated. Therefore, his family with three children, i.e., two sons and one daughter, had been surviving only with the income of the mother that is the wife of the petitioner and when she also died suddenly on 19.03.2008, the entire family became helpless.

3. Therefore, the petitioner claims that he had applied for appointment, on compassionate ground, to his daughter. Though she had been qualified with XII Standard, the respondents orally rejected the said application saying that no suitable job for his daughter was available with the second respondent office. Therefore, the petitioner had applied to the respondents on 07.05.2008 to give a job on compassionate ground to his son Charles. The said application made by the petitioner had been rejected by the second respondent vide his proceedings in No.Na.Ka.No.5147/Ne4/2008 dated 03.12.2008.

4. In the said rejection order, the second respondent has stated that already the petitioner's wife had been given appointment on compassionate ground and as per G.O.No.155, Labour and Employment Department, dated 16.07.1993, one person would be entitled to get job on compassionate ground. Therefore, since already one person has been given appointment on compassionate ground, the further request to give appointment, on compassionate ground, to the petitioner's son, can not be granted and accordingly the petitioner's application was rejected. The said order of the second respondent is now under challenge in this writ petition.

5. Mr. R. Ramesh, the counsel appearing for the petitioner would

state that the petitioner is already medically invalidated due to loss of sight and therefore, his wife was given appointment on compassionate ground and out of the income she earned, the entire family, which consists of three children namely, two sons and a daughter, the petitioner and his wife, was surviving. Whiles, suddenly the petitioner's wife, who was the Government servant working as a Sweeper for more than twelve years, died. Therefore, only on that basis, for the death of the petitioner's wife, who is the mother of the two male child and one female child, compassionate appointment was sought for and this was totally mis-construed by the second respondent and by quoting the said G.O.No.155 they rejected the request of the petitioner, to give compassionate appointment to his son. The petitioner's son claims appointment for the death of his mother, who was the Government servant worked for more than twelve years and

therefore that should be considered only as a fresh compassionate appointment for the sudden death of his mother because of which, the family became indigent and helpless. Therefore, the learned counsel appearing for the petitioner would submit that the reason cited in the rejection order, which is the impugned order herein, is totally unjustifiable and therefore, the same is liable to be quashed.

6.Mr.A.Zakir Hussain, the learned Government Advocate appearing for the respondents, on the basis of the counter affidavit filed by the respondents and also on the basis of the records available with the second respondent office, would submit that already one compassionate appointment had been given to the wife of the petitioner. Therefore, the second appointment to the son of the petitioner cannot be granted, in view of G.O.No.155, as has been quoted in the impugned order, and therefore, only in that context, the request of the petitioner had been rejected.

7.After hearing both sides, this Court infact directed the learned Government Advocate to produce the relevant file, pursuant to which, the files have been produced. On a perusal of the same, it reveals that the petitioner since became blind or loss of sight had been medically invalidated in the year 1994. Thereafter, on whose behalf compassionate appointment was sought for to his wife, which was considered and given to his wife in the year 1995 as Sweeper. The petitioner's wife after having worked for more than twelve years, died suddenly on 19.03.2008. Because of the death caused, the family has lost the only earning member. Therefore, in view of the indigent circumstances, where the family was suddenly placed, compassionate

appointment was sought for, initially for the daughter of the petitioner, which the respondents have rejected orally on the ground that the second respondent office does not have any suitable job to the qualification of the daughter of the petitioner. Only in that circumstances the application dated 07.05.2008 was given by the petitioner to get a job on compassionate ground to his son.

8.During the pendency of consideration of the said application the son of the petitioner i.e., K.Charles and another son Nanjankumar also had given applications and both applicants had initially sought for appointment on compassionate grounds for another daughter of the petitioner K.Saranya. Subsequently the said Saranya as well as the said Nanjankumar had given letters, giving no objection, that the compassionate appointment can be given to the son of the petitioner Charles. The said letters of Saranya dated 19.06.2008 and Nanjankumar dated 11.09.2008 are part of the records now produced by the

second respondent office.

9.The son of the petitioner i.e.,K.Charles is concerned, he studied upto X Standard, however failed in X Standard. Therefore, his

qualification is IX Standard. With that qualification only, compassionate appointment has been sought for by the petitioner's family. The entire family that is the petitioner's daughter and another son had given separate written communications/ no objection to the second respondent office stating that they would not claim any compassionate appointment and therefore, the same can be given, on their behalf, only to the son Charles. When that being so, the second respondent office could have very well considered these aspects and atleast the very same job of his mother or any other suitable job equivalent to the educational qualification of the said Charles could have been given to him. Instead, the second respondent, through the impugned order dated 03.12.2008, has simply stated that, already compassionate appointment has been given to one of the family member. Therefore, the second compassionate appointment cannot be granted.

10.In this regard, this Court feels that the reasoning adduced by the second respondent is totally under misconception, because, the earlier compassionate appointment given to the wife of the petitioner namely, Pushpa, was for the medical invalidation of the petitioner and pursuant to which, the said Pushpa worked for more than twelve years

and died on 19.03.2008 in harness. So the present request to seek for compassionate appointment is only on the basis of the sudden death of the said Pushpa, who was working as Sweeper for more than twelve years at the second respondent office. Therefore, if at all any appointment is given to the family of the said Pushpa, that cannot be construed as second appointment by way of compassionate ground as has been stated in the impugned order.

11.Moreover, in order to alleviate the indigent circumstances and penurious situation of a Government servant's family, due to the sudden death of the Government servant, this kind of compassionate appointments are being made, of-course while making such compassionate appointment all other recruitment/ appointment norms are either relaxed or not strictly followed.

12.In the case in hand the head of the family that is the petitioner became medically invalidated. The mother of the family worked for more than twelve years and suddenly died. Out

of the three children, one namely, Nanjankumar is a deaf and dumb. Therefore, the remaining two children namely, Charles and Saranya of

the family are alone eligible or entitled to claim compassionate appointment. Out of these two, the daughter K.Saranya has already given communication that she will not claim any compassionate appointment and therefore, the only person available in the family is the son namely, Charles in whose favour only the petitioner has made an application for compassionate appointment. Therefore, the son of the petitioner could have been considered for giving compassionate appointment in order to meet out the indigent circumstances of the family to run further.

13. From the facts above it becomes obvious that the family of the petitioner certainly is in indigent circumstances and therefore, the said family is fully eligible and entitled to seek permanent appointment on compassionate grounds. Therefore, the technical reason, which also in fact is not a correct reason, given by the second respondent in the impugned order, in the considered view of this Court, is totally unjustifiable and unsustainable. Accordingly, the impugned order is liable to be quashed.

14. In the result, the impugned order is quashed. The respondents are directed to pass orders giving compassionate appointment to the son of the petitioner namely, Charles considering his educational and other qualification and such exercise of passing orders for granting compassionate appointment shall be made by the respondents within a period of four weeks from the date of receipt of a copy of this order. With these directions, the writ petition is allowed. No costs.

-s/d-

Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

To

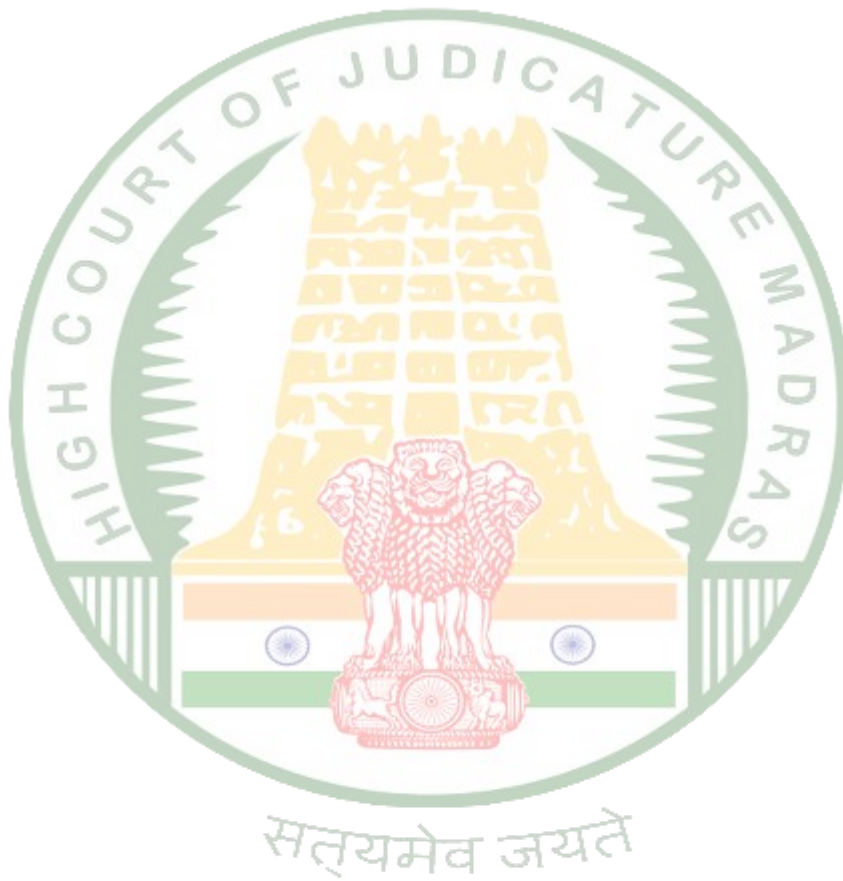
1. The Director of Medical Education,
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+1 CC to Govt. Pleader sr 18707
+1 CC to Mr.R. Ramesh, sr 18348

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