

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.12.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P. No.20142 of 2013

V.Rajakumaran

..Petitioner

Vs

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Salem District,
Salem.

3.The Revenue Divisional Officer,
Salem Division,
Salem.

4.The Thasildhar,
Yarcaud Taluk,
Salem District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, to call for the records of the fourth respondent in Na.Ka.1347/2013/C dated 21.06.2013 and quash the same and further direct the respondents to appoint the petitioner as Village Assistant (Village Menial) on compassionate grounds due to the death of his father Thiru Vellaiyan- Village Assistant.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mrs.K.Bhuvaneswari
Government Advocate

O R D E R

The order of rejection dated 21.06.2013, in respect of the claim of the writ petitioner for compassionate appointment is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the father of the writ petitioner Thiru Vellaiyan as employed as Village Servant (Thalayali) and passed away on 05.09.2012, on account of cardiac arrest. The family of the deceased employee was in penurious circumstances, on account of the sudden death of the father of the writ petitioner.

3.The writ petitioner made an application seeking compassionate appointment. The same was rejected in proceedings dated 21.06.2013, on the ground that the writ petitioner was over-aged and crossed 35 years of age. The learned counsel appearing for the writ petitioner states that the age limit prescribed for the post of Village Servant in the Tamil Nadu Village Service Rules, 1980, is 40 years for General candidates and 45 years for Scheduled Caste and Scheduled Tribe candidates. The petitioner is a Scheduled Tribe candidate and therefore, the age limit prescribed as per the rules is 45 years. Thus, the respondents have erroneously passed on order of rejection on the ground that the age limit prescribed is 35 years. When, it is brought to the notice of this Court that maximum age limit prescribed is 45 years for Scheduled Caste/Scheduled Tribe candidates, more specifically for the post of Village Servant, the order of rejection is perverse and contrary to the rules, in respect of the age limit prescribed.

4.The learned Government Advocate opposed the contention of the learned counsel for the petitioner by stating that the age limit prescribed under the Rules are only for direct recruitment and not for appointment on compassionate ground. It is pertinent to note that in respect of recruitment, the Special Rules are to be followed and compassionate appointment though is a scheme, the recruitment rules are to be followed by the competent authorities. Age limit, educational qualifications and other criteria are to be followed for appointment on compassionate ground also. Such being the factum of the case, this Court is of the opinion that the age limit under the Special Rules are to be followed even for compassionate appointment.

5.Under these circumstances, this Court is of the opinion that the reasons furnished in the order impugned in this writ petition is contrary to the Special Rules made in Tamil Nadu Village Servants Service Rules, 1980. The Government issued G.O.Ms.No.141, Revenue, dated 21.01.1981, and the respondents are bound to follow the Special Rules before considering the application submitted by the writ petitioner for compassionate appointment.

6.Under these circumstances, the impugned order passed by the respondent in proceedings Na.Ka.1347/2013/C dated 21.06.2013 is quashed and the third respondent is directed to reconsider the case of the writ petitioner for compassionate appointment on merits and in accordance with law and taking note of the Special Rules and pass orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7.Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

stm/ah

To

- 1.The Secretary to Government,
Revenue Department,
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Chennai-600 009.
- 2.The District Collector,
Salem District,
Salem.
- 3.The Revenue Divisional Officer,
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Salem.
- 4.The Thasildhar,
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+1cc to the Government Pleader, S.R.No. 91455

W.P. No.20142 of 2013

BR(CO)
TR(05/02/2018)