

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.15729 of 2014

T.Thirunavukarasu

.. Petitioner

vs.

The District Collector,
Thiruvarur District,
Thiruvaur.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the respondent in Pa.Mu.15611/2011/A3 dated 26.08.2011 and the subsequent proceedings of the respondent in O.Mu.8358/2012/A3 dated 10.08.2012 and to quash the same and consequently, direct the respondent to provide appointment to the petitioner on compassionate grounds based on his qualification, within a time frame.

For Petitioner : Mr.G.Sankaran
For Respondent : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The father of the petitioner was employed as Village Administrative Officer and he died in harness on 17.03.1993, leaving behind his wife and five children, which include the petitioner also. The mother of the petitioner, namely Tmt.Padmavathy made a representation dated 13.04.1993 to the respondent praying for appointment on compassionate ground on the ground that she along with her five children were finding it extremely difficult to make both ends meet. The mother of the petitioner has also approached the respondent very many times and she has not been favoured with any kind of response and no order of rejection came to be passed rejecting her request for appointment on compassionate ground. The petitioner was aged

about 7 years at the time of demise of his father and after attaining majority, the mother of the petitioner submitted a petition to the Collector of Thanjavur District dated 12.07.1993 on the grievance day and it was forwarded to the Tahsildar, Nannilam to take appropriate action and to inform the petitioner. The petitioner, after attaining majority, has also sent a representation dated 24.02.2007 and the Tahsildar, Nannilam issued proceedings dated 27.04.2007 calling upon the petitioner to appear for enquiry along with relevant documents and accordingly, the petitioner appeared and produced all the documents. However, the respondent has rejected the petitioner's request, vide order dated 26.08.2011 on the ground that the petitioner did not fulfill the age and educational qualification. Thereafter, the mother of the petitioner has submitted a representation praying for reconsideration and to give appointment to her son and it was once again rejected by the first respondent on 10.08.2012 and challenging the orders of rejection dated 26.08.2011 and 10.08.2012, the petitioner has come forward with this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the materials placed and would submit that admittedly, the father of the petitioner died in harness on 17.03.1993 and the mother of the petitioner immediately submitted the application in the year 1993 itself and the said application has not at all been given disposal and on attaining the age of majority by the petitioner, the mother of the petitioner submitted application to the Collector of Thanjavur on Grievance Day on 22.02.2005 seeking appointment on compassionate ground to her son and it was forwarded to the District Collector Thiruvaur for taking necessary action and to inform the same to the petitioner and however, the respondent, without taking note of the indigent circumstances of the family, has simply rejected the application on the ground that the petitioner has not fulfilled the age and educational criteria. The learned counsel appearing for the petitioner would further submit that since the petitioner has passed X standard, he may be accommodated in any of the post according to his qualification and therefore, prays for interference.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondent would contend that it is not specifically stated in the affidavit as to the indigent circumstances of the family even on the date of filing of the writ petition and even otherwise, the impugned orders are sustainable for the reason that the petitioner did not fulfill the age and educational criteria and therefore, prays for dismissal of the writ petition.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. A Division Bench of this Court in the decision in The Inspector General of Prisons, Tiruchirapalli District v. P.Marimuthu [2016 (5) CTC 125] has taken note of the various decisions of the Hon'ble Supreme Court of India as well as by this Court has held that "continuation of penury or indigent circumstances of the family, alone is not the factor to be considered by the Department, while examining the request of an Applicant for appointment on Compassionate grounds. Reading of the Government Orders shows that Scheme can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide Employment Assistance as and when the son or daughter of the deceased Employee attains majority. Under the scheme, the Department is not obligated to keep any post vacant, till the Applicant attains majority or to consider his candidature on attaining majority. Scheme only enables those who are eligible and satisfy all the eligibility criteria including age, within three years from the date of death". Therefore, the factor to be considered is the indigent circumstances of the family.

7. Though the matter was listed on 18.06.2014, the respondent is yet to file counter.

8. The mother of the petitioner immediately after the demise of her husband, submitted the application seeking appointment for her on compassionate ground in the year 1993 itself and it has not been given disposal. The mother of the petitioner, taking into consideration that one of his son/petitioner herein has attained majority, immediately submitted the application to the Collector of Thanjavur, Kancheepuram on the Grievance Day and it turn it was forwarded to the Tahsildar, Nannilam and he called upon the petitioner to appear in person and submit all the documents by issuing a notice and according to the petitioner, he appeared and submitted all the documents. However, the application of the petitioner came to be rejected, vide orders dated 26.08.2011 and 10.08.2012 on the ground of lack of age and educational qualification and more particularly, on the date of demise of his father, the petitioner has not attained the age of majority. In the considered opinion of the Court, the reasons assigned in the impugned order are per se unsustainable for the reason that though the mother of the petitioner submitted application in the year 1993 itself, it has not been given disposal and later on, she submitted one more application immediately after his son/petitioner attaining the age of majority. It is the specific case of the petitioner that his family consists of mother and five children and with great difficulty, he studied upto X Standard and it is the submission

of the learned counsel appearing for the petitioner, on instructions, that the family of the petitioner continues to be in indigent circumstance. Admittedly, on the date of demise of his father, the petitioner was a minor and therefore, he could not have applied for appointment on compassionate grounds and even otherwise, it could have been rejected on the ground of not attaining the age of majority. However, the respondent has cited the very same reason for rejection of his request and therefore, this Court is of the view that the impugned order warrants interference.

9. In the result, this Writ Petition is partly allowed and the impugned proceedings issued by the respondent in Pa.Mu.15611/2011/A3 dated 26.08.2011 and the subsequent proceedings of the respondent in O.Mu.8358/2012/A3 dated 10.08.2012 are set aside and the respondent is directed to consider the application submitted by the petitioner seeking appointment on compassionate ground on merits, after affording an opportunity of personal hearing to the petitioner and pass orders in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm
To
The District Collector,
Thiruvarur District,
Thiruvaur.

+1cc to the Government Pleader, S.R.No.5073

rj (CO)
md(09/02/2017)

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