

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.32109 of 2015

T.Velmurugan

... Petitioner

vs

1. The District Collector,
Krishnagiri District,
at Krishnagiri.

2. The Revenue Divisional Officer,
Krishnagiri Taluk,
Krishnagiri District.

3. The Tahsildar,
Krishnagiri Taluk,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relevant to the order in Na.Ka.40104/2010/A3 dated 01.04.2015 passed by the 1st respondent and quash the same as illegal, improper, unreasonable and against the principles of natural justice and thereby direct the respondents to appoint the petitioner in any post in the respondents' department under compassionate ground.

For Petitioner : Mr.A.Rajesh kanna

For Respondents: Mr.V.Jayaprakash Narayan
Special Government Pleader
for R1 to R3

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O R D E R

This Writ Petition is filed questioning the correctness of the impugned order dated 01.04.2015 passed by the District Collector, Krishnagiri District, by way of request of the petitioner for compassionate appointment was rejected.

2.The learned counsel appearing for the petitioner would submit that though the petitioner has studied up to 10th standard but not passed the said course. He has registered his name in the employment exchange for any appointment in the Government Department. But till date, his seniority in the employment exchange is not considered. In the meanwhile, unfortunately, his father died on 23.07.2010 while he was working as Village Assistant in the Palynayanapalli Village, Krishnagiri Taluk and District. Therefore, the petitioner, after the death of his father, has made a representation on 06.09.2010 to the Tahsildar, Krishnagiri District, the third respondent herein, requesting to appoint him under compassionate ground. After some time, the petitioner's mother Rajammal has also made an application on 08.09.2010, to the very same third respondent/Tahsildar, Krishnagiri District, seeking to appoint the petitioner in any post in the respondent department. But the said representation was also rejected by the impugned order on the ground that the petitioner, on the date of consideration, had been disqualified due to his overage. Finding fault with the reason given by the District Collector, Krishnagiri District/the first respondent herein, that the petitioner became overaged, the learned counsel submits that for issuing any compassionate appointment on the date of passing the impugned order, for granting an order of appointment on compassionate ground, no age condition can be put against the petitioner. The reason is that the compassionate appointment itself is provided in order to come out from the financial crisis that would be met by the family of the deceased employee on a sudden death of bread winner. Therefore, it is appropriate for the respondents to consider the indigent circumstances of the family and help the family to survive, by providing employment on compassionate grounds.

3.As the District Collector, Krishnagiri District, the first respondent herein has wrongly approached the case of the petitioner, the same is liable to be interfered with. In support of his submission, the learned counsel for the petitioner, placing reliance on the order passed by this court in W.P.No.2112 of 2016 dated 22.11.2016, (R.Rajarathinam Vs. The District Collector, Krishnagiri, and another), submitted that when a similar and identical issue came up before this court in regard to the age qualification for considering the appointment on compassionate ground, by this court after dealing with the issue has decided the issue in paragraph No.7, therein, holding that the dependants of deceased Government Servants can be appointed on compassionate ground 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. The relevant portion of the clarification in the Government order is extracted in paragraph Nos.7 and 8 is reproduced below:

'7. Further, it is seen that a Division Bench of this Court by an order dated 27.10.2005 in W.P.No.744 of 2003 [C.Jayapal vs. The Director of Medical Education, Chennai] has discussed about the clarification pertaining to age relaxation in the case of Scheduled Caste and Schedule Tribe. Relevant portion of the Clarification in the Government Order, is extracted thus:

"5. We have already observed that the applicant belongs to Scheduled Caste Community. The Government of Tamil Nadu, Labour and Employment Department, by letter No.46571.N1/82-3, dated 24.11.1982, clarified the question of age relaxation in the case of Scheduled Caste and Scheduled Tribe as under:

"2. The Government have examined the above points and issued the clarifications as follows:

(i) 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. "Though the existence of the said instruction is not disputed, the fact remains, the respondents have not considered the relevant fact that in the case of appointment on compassionate ground, the age limit prescribed in the Special Rules can be relaxed if the applicant belongs to Scheduled Caste/Scheduled Tribe. As per G.O.No.1579, dated 21.07.1981, the maximum age as far as son and daughter is concerned is 30 and widow of the deceased is 31 years, in the case of employment on compassionate ground. In the letter dated 11.03.1982, the Government of Tamil Nadu has clarified that on the date of death of Government servant, the age of son or daughter/widow should not be more than 30/40 years. In G.O.Ms.No.155, L & E, dated 16.07.1993, in para 3, it is stated that when a dependent of the family is employed, the factors to be ascertained are, whether he is a regularly employed and is already supporting

the family; if the person was employed even before the death of the Government servant and was living separately without extending any help to the family, when the case of other eligible dependent should be considered."

8. In view of the above, this Court is of the view that the impugned order dated 12.11.2015 passed by the 1st respondent is liable to be quashed. Hence, following the ratio laid down in the above judgments, i.e. in W.P.No.744 of 2003 and W.P.No.6082 of 2011, the impugned order dated 12.11.2015 passed by the 1st respondent herein is quashed. The 1st respondent is directed to provide compassionate appointment to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

This Writ petition is allowed with the above direction. No Costs''.

4. In the light of the above, although the learned Special Government Pleader appearing for the respondents submitted that the impugned order does not call for interference as the petitioner had become over aged, this court by overruling the objection raised by the respondents and by following the order passed by this court in WP. No.2112 of 2016 dated 22.11.2016, giving a direction to the respondents that the dependents of the deceased Government Servants 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, this court herein setting aside the impugned order hereby directs the first respondent/the District Collector, Krishnagiri, Krishnagiri District to consider the case of the petitioner on the ground of compassionate appointment by providing age relaxation. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

5. Therefore, the first respondent is directed to process the case of the petitioner seeking age relaxation for the petitioner and as and when the first respondent makes any proposal to the Government, the same should be considered in the light of the order of this court, within a period of two months from the date of receipt of a copy of this order.

6.The writ petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Krishnagiri District,
at Krishnagiri.
2. The Revenue Divisional Officer,
Krishnagiri Taluk,
Krishnagiri District.
3. The Tahsildar,
Krishnagiri Taluk,
Krishnagiri District.

+1cc to Mr.A.Rajeshkanna, Advocate Sr.16363
+1cc to the Government Pleader Sr.16554

W.P No.32109 of 2015

kk[co]
srg 12/05/2017

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