

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19373 of 2017

P.Mariappan

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by the Secretary to the Government
Transport Department
Fort St.George, Chennai 600 009.

2.The Director
Tamil Nadu Motor Vehicle
Maintenance Department
Velachery, Chennai 600 042.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus and directing the respondents to appoint the petitioner in the post of Junior Assistant as per petitioner's representation dated 19.06.2017.

For Petitioner : M/s.S.Manjula

For Respondents : Mr.C.C.Rangarajan
Government Advocate

सतसमेन जयते
O R D E R

The relief sought for in this writ petition is for a direction, to direct the respondents to appoint the petitioner in the post of Junior Assistant in the Tamil Nadu Motor Vehicle Maintenance Department under compassionate ground as per the representation dated 19.06.2017.

2.The father of the writ petitioner was working as an Inspector in the office of the Government Automobile Workshop, Madurai. His father died on 10.10.1996 while he was in service. Due to sudden demise of the father of the writ petitioner, the family was in indigent circumstances and his father alone was the bread winner of the family. Accordingly, the writ

petitioner made an application, seeking for a compassionate appointment. Considering the same, the writ petitioner was appointed on 18.02.2008 as an Office Assistant. In the order of appointment, the appointing authority has clearly stated that the writ petitioner should not claim appointment to any higher post in future and he has appointed him in the available vacancy on that ground, and the conditions in the appointment order has clearly stated and by accepting the said conditions, the writ petitioner was appointed in the post of Office Assistant and working for about nine years.

3. Now, the writ petitioner has made a representation stating that he has completed degree course and therefore, he should be appointed to the post of Junior Assistant. Mere possession of the qualification of degree will not confer any right on the writ petitioner to claim the post of Junior Assistant. Compassionate appointment is a scheme, more so, to mitigate the indigent circumstances occurring due to the sudden demise of the Government employee while in service. Compassionate appointment is an exception and can never be made as a regular recruitment process. The writ petitioner was appointed to the post of Office Assistant. Thus, further appointment to the post of Junior Assistant by way of transfer of services can never be claimed as a matter of right.

4. The post of Junior Assistant is in the purview of Tamilnadu Public Service Commission, all those eligible persons possessing required qualifications are free to participate in the recruitment process. Seeking opportunity for employment is a basic right of every citizen of this country. The candidates possessing the required qualification shall be allowed to participate in the recruitment process under the constitutional schemes. Thus, the back door entry through this scheme has to be prevented. This scheme of compassionate appointment can never be undertaken or to be stretched so as to prevent all the qualified youths to participate in the regular recruitment process under the constitutional schemes.

5. The writ petitioner was appointed once in the post of Office Assistant and by accepting the conditions, he joined in the post and working for about nine years. The qualification of degree is enough even to appoint a person in Group-I, II and III posts. For appointment to all these posts, one has to participate in the recruitment process by appearing in the written examination, interview etc., Thus, seeking appointment by way of transfer to the higher post on a compassionate ground is absolutely impermissible and no such claim has to be entertained so as to prevent all other eligible candidates waiting outside and longing for public employment for years together.

6.Lakhs and lakhs of youths in this country are appearing for competitive exams and aspiring for public employment. The court is bound to consider the plight of those young persons, who are preparing for competitive exams by putting their hard labour and by appointing through such special and exceptional schemes will certainly amounts to deprival of right of the public employment to rightful candidates of this great nation. Thus, the authorities are to be very much conscious and have to follow the terms and conditions strictly, stipulated in such schemes, including the compassionate appointment schemes.

7.This being the view of this Court and it is for the officials to follow all these conditions scrupulously. This court is not inclined to entertain the claim made by the writ petitioner.

8.Accordingly, the writ petition is devoid of merits and stands dismissed. However, there is no order as to costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

dna/kas

To

1. The Secretary to the Government
The State of Tamil Nadu
Transport Department
Fort St.George, Chennai 600 009.
2. The Director
Tamil Nadu Motor Vehicle
Maintenance Department
Velachery, Chennai 600 042.

Copy to:

The Chief Secretary to the Government,
Personnel and Administrative
Reforms Department,
Fort St.George,
Chennai-600 009

+ 1 cc to M/s.S.Manjula, Advocate,SR.54784
+ 1 cc to The Govt.Pleader, SR.54576

W.P.No.19373 of 2017

NR 05/09/2017