

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No. 9870 of 2015

Mr.J.Shakthivel

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its 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 : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.A2/16057/2014 dated 07.01.2015 and quash the same and direct the respondent to appoint the petitioner in any post under Group C.

For Petitioner : Mr.T.Ramadevi

For Respondents : Mr.K.Dhananjayan
Special Government Pleader
(For R1 & R2)

O R D E R

The order of rejection rejecting the claim of the writ petitioner for appointment to the higher post of Junior Assistant dated 7th January 2015 is under challenge in this writ petition.

2. The father of the writ petitioner was serving in the post of Watchman in the Government Automobile Workshop at Coimbatore and passed away on 3rd May 2002 while he was in service.

3. The writ petitioner claims that his father was the sole bread winner of the family and due to the sudden demise of his father the family is not able to meet out the day to day family expenses. Thus, an application was submitted by the writ petitioner seeking for an appointment on compassionate grounds. Considering the indigent circumstances put forth by the writ petitioner, the respondent considered the case of the petitioner and appointed him in the post of Watchman in proceedings No.A6 20262/2006 dated 30.12.2008. The order of appointment is enclosed in page no.1 of the typed set of papers filed along with this writ petition.

4. On perusal of the order of appointment, it is made clear that the writ petitioner in future should not claim for any higher post of Office Assistant, Record Clerk or Junior Assistant. The writ petitioner on his own volition accepted the order of appointment and the conditions stipulated therein. Since the writ petitioner had accepted conditions stipulated in the order of appointment dated 30.12.2008 and joined in the post of Watchman and serving in the office of the respondents for about 9 years, now he cannot file this writ petition claiming the higher post of Junior Assistant based on the qualifications acquired by him.

5. Compassionate appointment is a scheme and not a regular recruitment process. All appointment to public offices is to be undertaken only through constitutional scheme in accordance with the recruitment rules. Compassionate appointment is an exception and can never be claimed as a matter of right. Terms and conditions stipulated under the compassionate appointment scheme is to be scrupulously followed by the Authority Competent to consider the schemes.

6. Equal opportunity of all the citizens for public employment is a constitutional directive and the schemes being an exception cannot be implemented so as to dilute the constitutional directives of providing equal opportunity to all the citizens of this great Nation. In other words, scheme is an exception. Scheme shall not be allowed to supersede the constitutional goal and the spirit of the constitution. Thus, after getting an appointment on compassionate grounds at the first instance, the writ petitioner cannot claim further appointment to a higher post on compassionate grounds. The very object of the scheme for compassionate appointment is to mitigate the indigent circumstances of the family on the demise of a Government servant or on account of sudden or surprise event.

7. Such being the object, this Court is of the noted opinion that the very claim made out in the writ petition is absolutely misconceived and cannot be considered and it should be rejected at the outset.

8. Thus, the order of rejection impugned in this writ petition is perfectly in order and there is no infirmity and no further adjudication is required to be undertaken on the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

may a

To

1. The Secretary to the Government,
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.

+1cc to the Government Pleader Sr. 56566

WRIT PETITION No. 9870 of 2015

SK(CO)
VR(04/09/2017)

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