



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P. [MD].No.758 of 2015

Alwin Paul Abraham : Petitioner

Vs.

1.The Principal District Judge,
Thoothukudi District,
Thoothukudi.

2.The Government of Tamil Nadu,
Rep by its Secretary,
Home Department, Secretariat, Chennai.

[R-2 impleaded vide order dated 24.10.2016 made in M.P.(MD).No.1
of 2015] : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the claim of the petitioner for appointment to him on compassionate ground and to pass appropriate orders within a period that may be fixed by this Court.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

The petitioner has come forward with the present Writ Petition seeking a Writ of Mandamus directing the respondents to consider his claim for appointment on compassionate ground.

2. The case of the petitioner is that his father, namely, Rathinaraj, died on 12.08.2002, while he was working as Sheristadar in Sub-Court, Thoothukudi, leaving behind the petitioner and his mother. The petitioner is the adopted son of



the deceased employee. After the demise of the father of the petitioner, the mother of the petitioner made representations on 23.03.2006 and 15.11.2006 before the first respondent seeking employment on compassionate ground. At that time, the petitioner was aged about seven years. Though her mother had produced all the relevant documents, her claim was not considered by the first respondent. Thereafter, again, on 23.04.2009, the mother of the petitioner had submitted a representation before the first respondent seeking employment to the petitioner on compassionate ground. The said representation was also returned by the first respondent with an endorsement stating that such representation was not made within a period of three years from the date of death of the deceased employee. The petitioner, after attaining majority, had submitted an application, on 23.09.2014, before the first respondent seeking employment on compassionate ground. The said application was forwarded by the learned Subordinate Judge, Thoothukudi, by his proceedings, dated 11.11.2014, to the first respondent herein. Since no action has been taken by the first respondent, the petitioner has come forward with the present Writ Petition, for the relief stated supra.

3. Today, when the Writ Petition is taken up for consideration, it is submitted by the learned counsel for the petitioner, by producing a copy of the proceedings dated 08.11.2016, that during the pendency of the Writ Petition, the application of the petitioner seeking employment on compassionate ground was returned by the first respondent herein, on the ground that the petitioner has not produced any document to show that he is the adopted son of the deceased employee. The learned counsel for the petitioner further submitted that the petitioner is now having adoption deed dated 10.04.1997, to show that he is the adopted son of the deceased employee and therefore, there may not be any impediment for the first respondent to consider the claim of the petitioner for appointment on compassionate ground.

4. We have heard the learned Additional Government Pleader appearing for the respondents also.

5. It is the submission of the learned counsel for the petitioner that during the pendency of the Writ Petition, the application of the petitioner seeking employment on compassionate ground was returned by the first respondent herein, by his proceedings dated 08.11.2016, on the ground that the petitioner has not produced any document to show that he is the adopted son of the deceased employee. The reason for returning the application of the petitioner is as follows:-

"The applicant is hereby directed to state the reasons for furnishing the Birth Certificate in which the name of parents differs, as from the Original Official records. Documents in support of adoption are not furnished.



Hence, the applicant is directed to furnish the correct Birth Certificate along with the documents in support of adoption".

6. Now, the learned counsel for the petitioner produced a copy of the adoption deed dated 10.04.1997 to show that he is the adopted son of the deceased employee and thus, he sought for a suitable direction to the first respondent to consider the claim of the petitioner for employment on compassionate ground.

7. In view of the submission made by the learned counsel for the petitioner, this Court directs the petitioner to produce a copy of the adoption deed dated 10.04.1997 before the first respondent, along with a representation and also correct birth certificate, seeking employment on compassionate ground. On receipt of the same, the first respondent is directed to consider the claim of the petitioner and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion regarding the merits of the matter and it is for the first respondent to decide the issue purely on merits.

7. The Writ Petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

NB

To

1.The Principal District Judge,
Thoothukudi District,
Thoothukudi.

2.The Secretary to Government,
Home Department, Secretariat, Chennai.

+1CC to Mr.T.S.Mohamed Mohideen, Advocate Sr.No.8886

+1CC to Mr.V.Kannan, Advocate Sr.No.9017

GJM/MR/SAR-2-6.3.17-3P-5c

ORDER MADE IN
W.P. [MD] .No.758 of 2015
17.02.2017