



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.02.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P (MD) No.2357 of 2017

R.Thangaraj

... Petitioner

vs.

The Managing Director,
Tirunelveli District Co-operative Milk
Producer's Union Limited,
Reddiyarpatti Road, Perumalpuram,
Tirunelveli-7.

... Respondent

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the petitioner's application dated 08-11-16 seeking compassionate appointment and provide him employment on compassionate ground within the time fixed by this Court.

For Petitioner : Mr.H.Arumugam
For Respondent : Mr.S.Chellapandian

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's application dated 08-11-16 seeking compassionate appointment and provide him employment on compassionate ground within the time to be fixed by this Court.

2.The petitioner's father namely, K.Ravindaran was employed as a Labour in the respondent office. He died on 11.04.2015 while in service leaving behind his wife, the petitioner/son, daughter Saranya as legal heirs. At that time, the petitioner was studying in Bachelor of Engineering(Mechanical) and his sister was studying in Bachelor of Arts and that his mother is illiterate. Hence, the petitioner has made a representation dated 08.11.2016 to the respondent seeking compassionate appointment along with necessary documents and the same has not been considered. Hence, this writ petition.

3.The respondent submits that the petitioner is entitled to be considered for compassionate appointment to the post of Junior Executive, provided he acquires a degree and Diploma in Cooperative Management apart from the +2 qualification. It is further submitted that for the post of Mazdoor, the qualification prescribed is 10th standard Fail and that already there are 65 excess posts of Mazdoor in the respondent union. Further, the petitioner is placed at No.7 in the seniority list for



compassionate appointment maintained by the respondent. In case, the petitioner acquires the qualification required for the post of Junior Executive before his turn comes, his case can be considered for the said post.

4. Hence, the respondent is directed to consider the petitioner for compassionate appointment when his turn comes in accordance with the rules. It is also made clear that if the petitioner acquires the qualification required for the post of Junior Executive before his turn comes, his candidature shall be considered for the said post.

5. At this juncture, this Court deems it fit to have a glance at the Statement of Objects and Reasons for the Maintenance and Welfare of Parents and Senior Citizens Act, 2007:-

"Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up oldage homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for:-

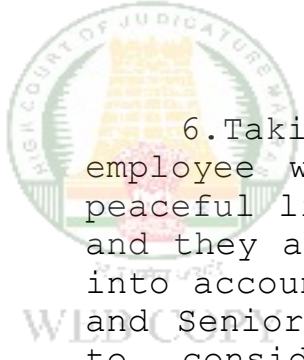
(a) appropriate mechanism to be set-up to provide need-based maintenance to the parents and senior citizens;

(b) providing better medical facilities to senior citizens;

(c) for institutionalisation of a suitable mechanism for protection of life and property of older persons;

(d) setting-up of oldage homes in every district.

4. The Bill seeks to achieve the above objectives."



6. Taking note of the plight of the spouse of the deceased employee who should have financial support in order to lead a peaceful life, as many of the elderly people are thrown to streets and they are not even able to join Old Age Homes, and also taking into account the objects of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, this Court directs the respondent to consider and provide compassionate appointment to the petitioner, if found eligible, subject to the condition that the petitioner shall pay 25% of his monthly salary to his mother for her livelihood and that the petitioner shall file an undertaking affidavit to that effect. Only on that condition, eligible person can be given compassionate appointment. If he fails, he automatically loses his employment. 25% of the monthly salary of the petitioner shall be credited to the Savings Bank Account of the spouse of the deceased through RTGS by the employer and that Account should not be a Joint Account with the employee who got compassionate appointment.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To
The Managing Director,
Tirunelveli District Co-operative Milk
Producer's Union Limited,
Reddiarpatti Road, Perumalpuram,
Tirunelveli-7.

+1 CC to M/s.H.ARUMUGAM, Advocate, SR No. 7864
+1 CC to M/s.S.CHELLAPANDIAN, Advocate, SR No.8456

NBI
PSM/CM-MSA/28.02.2017/3P/4C

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