



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2017

CORAM:

THE HONOURABLE **MR.JUSTICE S.VAIDYANATHAN**

W.P.(MD)No.508 of 2017

AND

W.M.P.(MD).No.415 of 2017

U.Thomas Fernandez

.. Petitioner

Vs.

1. The Joint Commissioner,
Office of the Commissioner of Revenue Administration,
Chepauk, Chennai.

2. The District Collector,
Tiruchirapalli District,
Tiruchirapalli.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relation to the order of the 2nd respondent in Mo.Mo.A4/1973/2016 dated 20.06.2016 quash the same and direct the respondents herein to appoint the petitioner on compassionate ground in any one of the suitable post.

For Petitioner : M/s R.Arunmozhi

For Respondents : Mr.S.Sathesh Kumar
Additional Government Pleader

O R D E R

The case of the petitioner is that the order impugned in this writ petition rejecting the request of the petitioner for compassionate appointment, has got to be interfered with, as the application for compassionate appointment was given immediately after his father's death, on 20.06.2016 and on the very same date, the impugned order has been passed.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.



3. For the alleged misconduct of the petitioner's father, the District Collector, placed him under suspension on 20.03.2008. Thereafter, based on the complaint, he was arrested by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Trichirappalli. Thereafter, he obtained bail and also filed W.P. (MD) No. 10882 of 2009 and got an order of interim stay on 28.10.2009. After that, the petitioner's father joined duty as Special Deputy Tahsildar (Election) and worked till 21.04.2011. Thereafter, a criminal case has been registered and charge sheet has been filed before the Special Court for trial of cases under Prevention of Corruption Act, Trichirappalli.

4. The departmental enquiry was proceeded against the father of the petitioner, after framing of charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. According to him, the petitioner's father attained the age of superannuation on 31.05.2013, but the services were allowed to continue as a criminal case and departmental proceedings are pending. His father took on leave and died on 05.11.2013. Hence, the criminal case before the Special Judge, has got abated and an order was passed by the Special Judge on 03.01.2014 to that effect.

5. The petitioner submitted that he made a request for compassionate appointment and it has been rejected, which is the subject matter of the present writ petition.

6. It is no doubt that the application for compassionate appointment has been made within the time frame. But for the serious charges, the petitioner's services were allowed to continue after 31.05.2013, only for the purpose of continuation of departmental proceedings as well as criminal case. Except that for no other reason, the service of the petitioner's father was allowed to be continued to take a stand that he is deemed to be in service.

7. Even though serious charges have been framed against the petitioner's father, unless and until it is established, no Court can convict or punishment can be imposed by the department, as the petitioner's father died and all the proceedings became stand still after his demise. It has to be taken into account that the petitioner's father attained the age of superannuation on 31.05.2013 and except the terminal benefits, which had due to him, otherwise permissible in law would not be extended to the legal heirs of the deceased employee, since the death has taken place after the date of superannuation. The petitioner's request for compassionate appointment is not justified, but the respondent is perfectly justifying in rejecting the request for compassionate appointment. Hence, I find no merit in this writ petition.



8. In the result, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

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Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
Office of the Commissioner of Revenue Administration,
Chepauk, Chennai.

2. The District Collector, Tiruchirapalli District,
Tiruchirapalli.

3 The Deputy Superintendent of Police,
Vigilance and Anti corruption,
Trichy

+1 cc to Special Government Pleader SR.No.2518

W.P. (MD) No. 508 of 2017

11.01.2017

SMA/RR-BS/07.03.2017:3P/5C