



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**W.P.(MD) No.16966 of 2016

WEB COPY

Elavarasan

... Petitioner

Vs.

1.The Director General of Police,
Chennai - 600 004.

2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.

3.The Superintendent of Police,
Karur District,
Karur.

... Respondents

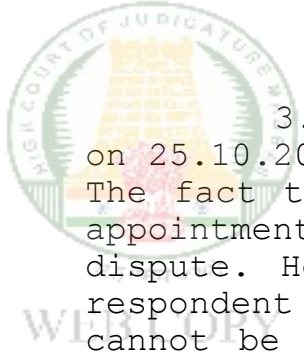
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue of a Writ of Certiorarified Mandamus, to call for the records of the second respondent herein in pursuant to impugned proceedings in Na.Ka.No.A3/380/36528/2013 dated 14.12.2015 and quash the same and to direct the second respondent to give compassionate appointment to the petitioner.

For Petitioner : Mr.S.Deenadhayalan
For Respondents : Mr.N.S.Karthikeyan,
Additional Government Pleader.

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the second respondent dated 14.12.2015 and consequently to direct the second respondent to give appointment to the petitioner on compassionate ground.

2.The petitioner's father died on 25.10.2001, when he was working as Head Constable at Karur Police Station. Though the petitioner's father was dismissed from service on 13.12.1998, on the basis of some charges levelled against him under Rule 3(b) of Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules 1955, as against the order of dismissal, the petitioner's father filed an application in O.A.No.3536 of 1998, before the Tamil Nadu Administrative Tribunal, and the order of dismissal was set aside by the Tribunal on 18.09.2000. The Government filed a Writ Petition against the order of Tribunal before this Court in W.P.No.3205 of 2001, and the said Writ Petition was also dismissed. Hence the order of Tribunal in O.A.No.3536 of 1998 was confirmed.



3. It is not in dispute that the petitioner's father died on 25.10.2001, when the Writ Petition was pending before this Court. The fact that the petitioner's mother filed an application seeking appointment on compassionate ground to the petitioner is not in dispute. However it is the case of the petitioner that the first respondent informed the petitioner's mother that the application cannot be considered in view of pendency of the Writ Petition in W.P. No.3205 of 2001. The petitioner produced the copy of communication dated 05.05.2002, received from the Director General of Police / first respondent.

4. In such circumstances, it can be noticed that the application filed on behalf of the petitioner is acknowledged by the respondent. However when an application was filed by the petitioner in continuation of the application filed by the petitioner's mother, the same has been rejected by the impugned order only on the ground that the dependents of deceased are entitled to appointment on compassionate ground, only if the employee died, while he was in service.

5. The respondent also stated that the petitioner's father was removed from service and that an appeal was pending when he died, The State Administrative Tribunal has set aside the order of termination passed against the petitioner and directed reinstatement. This order was also confirmed by this Court in the Writ Petition filed by the respondent herein. In such circumstances, when the order of termination was set aside even during the life time of petitioner's father and the petitioner's father was deemed to be in service for all practical purposes.

6. Having regard to the admitted facts narrated above the contention of the second respondent as reflected in the impugned order that the petitioner's father was not in service, when he died in 2001, can not be accepted. The reasons given in the impugned order is not sustainable. The petitioner has filed the application in time and hence the respondent is bound to consider the application on merits. The impugned order is set aside and the second respondent is directed to consider the application on merits and in accordance with law and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. The Writ Petition is allowed accordingly. No Costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Director General of Police,
Chennai - 600 004.



2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.

3.The Superintendent of Police,
Karur District,
Karur.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.61615
+1cc to MR.S.DEENADHAYALAN Advocate in SR. No.61087

MM/CMR
JS/KP/SAR.2/10.07.2017/3P-6C

W.P. (MD) No.16966 of 2016
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