

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1214 of 2018
and
C.M.P.No.9889 of 2018

M.Hari Govindan

Appellant

Versus

The Managing Director,
Vellore Cooperative Sugar Mills Limited,
Ammundi, Vellore Sugar Mills Post,
Pin Code 632 519.
Vellore District.

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.10.2017 passed in W.P.No.586 of 2014 on the file of this court.

Prayer in W.p.no.586 of 2014: Praying to issue a Writ of Certiorarified Mandamus in calling for the entire records which culminated in issuing the order in Letter Rc.No.581/2013/A1 dated 17.7.2013 on the file of the respondent quash the same and consequently directing the respondent to appoint the petitioner in any suitable post on compassionate grounds in the respondent Sugar Mill.

For appellant : Mrs.Vedavallikumar

For respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader

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JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge

declining to interfere with the order passed by the respondent-Sugar Mills so as to consider the case of the writ petitioner for permanent appointment on compassionate grounds.

3. It appears that the father of the writ petitioner had expired on 31.10.2001 while in service in the respondent-Sugar Mills and had he been alive, he would have retired by 31.3.2008. It further appears that his mother had moved an application seeking appointment on compassionate grounds on 19.4.2002 and based on the same, he was provided with employment on daily wages and he had been continuing in the same capacity and while, he had submitted a representation on 10.4.2013 seeking permanent employment which came to be rejected by the respondent and hence, he had come up with the writ petition seeking indulgence of the court.

4. The learned Single Judge, while dismissing the writ petition, has observed as under:-

"However, this court has to consider the fact that the father of the writ petitioner passed away on 31.10.2001 and the writ petitioner was appointed as daily wage employee in the year 2003 and continuing in that capacity till today. Thus, the indigent circumstances aroused on account of the sudden demise of the father of the writ petitioner was considered by the respondent and he was engaged as daily wage employee and now after a lapse of about sixteen years from the date of death of the deceased employee, this court cannot consider the same for issuing any direction to grant permanent appointment to the writ petitioner. It is left open to the writ petitioner to participate in the open competitive process and secure permanent employment, in accordance with the recruitment rules in force.

4. Appointment cannot be secured by way of special scheme which is otherwise a concession. In the case on hand, a concession has been provided by engaging the writ petitioner as daily wage employee and therefore, the penurious circumstances arise on account of death of bread winner of the family was neutralized. Thus, any further appointment or development of the carrier of the person to be secured only on merits and in accordance with the rules in force. This being the concept and legal principles to be followed."

5. It appears that the writ petitioner seeks regularisation after a decade of his appointment made on daily wages in the year 2003 taking into consideration the death of his father wayback in the year 2001. Having found that the penurious circumstances arose on account of the death of the bread winner of the family was neutralized by a concession shown by the respondent in engaging the writ petitioner on daily wages, the learned Single Judge has rightly rejected the claim of the writ petitioner, which we are not inclined to interfere.

6. Moreover, the claim is made as against the respondent, a Sugar Mill and therefore, whether there is any locus standi to issue such a writ or direction exercising the power under Article 226 of the Constitution of India is very much doubtful. In the circumstances, we are of the view that there is no scope for interference with the order passed by the learned Single Judge. However, we make it clear that it is for the writ petitioner/appellant to make a further representation to the respondent-Sugar Mills expressing his family circumstances within a period of two weeks from the date of receipt of a copy of this judgment, and in such event, it shall be considered by the respondent on priority and in accordance with law, however, taking into consideration as to whether the indigent circumstances in the family of the writ petition still subsists and there is no impediment for the Sugar Mills to take a decision in the matter. However, the court has nothing to say more in the matter as the remedy for the appellant is elsewhere and if so advised, it is for him to move the appropriate forum. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VII)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

ssk.

To
The Managing Director,
Vellore Cooperative Sugar Mills Limited,
Ammundi, Vellore Sugar Mills Post,
Pin Code 632 519. Vellore District.

+2cc to Mr.Vedavalli Kumar, Advocate SR.No.38503

W.A.No.1214 of 2018

NRI (CO)
GN(10/07/2018)