

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

C O R A M :

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.A.No.7 of 2015
and M.P.No.1 of 2015

1. State of Tamil Nadu rep by
Secretary,
Education Department,
Fort St. George,
Chennai

2. The Director of School Education,
DPI Compound, College Road,
Nungambakkam, Chennai

3. The District Educational officer,
Tindivanam, Villupuram District

4. The Headmaster,
Illodu Govt. High School,
Gingee Taluk,
Villupuram District

.... Appellants

-VS-

E. Mani

.... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.12768 of 2007 dated 21.11.2013

For Appellants : Mr.K. Karthikeyan
Govt. Advocate

For respondent : No appearance

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The claim made by the respondent for compassionate appointment, consequent to the death of his mother, who was a part time employee of Illodu Government High School, Gingee Taluk, was rejected by the District Educational Officer. The related writ petition filed by the respondent, was allowed by the learned Single Judge and a Mandamus was issued directing the appellants to appoint him on compassionate ground. Feeling aggrieved by the said Order, the State has come up with the instant appeal.

2. The learned Government Advocate, appearing on behalf of the appellants, contended that the mother of the respondent was appointed as Sweeper. Since it was a part time post, the respondent was not entitled to claim compassionate appointment.

3. None appeared on behalf of the respondent inspite of printing his name in the cause list.

4. The documents available on record clearly indicate that Tmt.Kannammal was engaged as a Part Time Sweeper in Illodu Govt. High School, Gingee Taluk. Her salary was paid from the contingency fund. There was no sanctioned post. Therefore, her service was not regularised. The mother of the respondent, after completing 25 years of part time work, died on 7.12.91.

5. The respondent submitted an application for compassionate appointment. His request was rejected by the District Educational

Officer, Tindivanam by order dated 08.04.2004 primarily on the ground that the deceased, being a part-time employee, her legal heir was not entitled for compassionate appointment.

6. The learned Single Judge directed the appellants to offer employment to the respondent on compassionate basis on the ground that in case, the employee completed 480 days of continuous work, she was entitled to an order of regularisation. However, the fact remains that the appointment itself was not against a sanctioned post, but it was a part time one and the salary was paid from the contingency fund. Even during the currency of the appointment, the mother of the respondent has not taken up the matter with the authorities for regularisation of her services.

7. It is a matter of record that only after a period of ten years, the respondent submitted an application for compassionate appointment.

8. The learned Single Judge without considering the delay in making the application, directed the appellants to provide employment to the respondent on compassionate ground. Since the mother of the respondent was not a regular employee, the appellants were correct in their contention that the respondent is not eligible for compassionate ground. Even otherwise, the application of compassionate appointment was submitted only after a period of ten years. The compassionate appointment is made only to help the family to tide over the difficulty on account of the sudden death of the Government Servant, who is the sole bread winner of the family. The appointment cannot be postponed indefinitely.

9. The learned Single Judge was therefore not correct in directing the appellants to give compassionate appointment.

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sr

10. In the result, the order dated 21.11.2013 is set aside. The writ petition in W.P No.12768 of 2007 is dismissed.

11. The intracourt appeal is allowed. No costs. Consequently, connected MP is closed.

(K.K.SASIDHARAN, J.) (P.VELMURUGAN, J.)
01 February 2018

sr

Speaking Order/Non-speaking Order

Index:yes/no

website:yes/no

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