

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.1748 of 2017
and
C.M.P.No.22228 of 2017

- 1.The Director,
Director of School Education,
College Road, Chennai-600 006.
- 2.The District Educational Officer,
Connor, Nilgiris District.
- 3.The Headmaster,
Government High School,
Kinnakorai, Nilgiris District. .. Appellants/Respondent

Vs.

R.Sathish Kumar .. Respondent/Petitioner

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court dated 03.11.2015 in W.P.No.1335 of 2015.

Prayer in W.P.No.1335/15 : To Issue a Writ Certiorarified Mandamus or any other Writ Order or Direction in the nature of a Writ calling for the records relating to the proceedings of the 1st Respondent in Na.Ka.No.94939/J4/2013 dated 20.12.2013 confirming the proceedings of the 2nd respondent in Na.Ka.No.7069/A4/2008 dated 20.08.2010 and quash the same and consequently direct the respondents to provide appointment to the petitioner on compassionate ground in any of the Government School in Tamil Nadu.

For Appellants : Mr.R.Udhayakumar,
Additional Government Pleader

For Respondent : Mr.R.Gowri

JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh, J.)

This writ appeal has been filed against the order passed by this Court dated 03.11.2015 in W.P.No.1335 of 2015.

2.This is a matter pertaining to compassionate appointment. The respondent's father died on 15.01.1995 while he was working as a Night Watchman in the third appellant-Government School, leaving behind his wife, son and two daughters as his legal heirs. At the time of the death of the respondent's father, the respondent was nine years old. The respondent attained the age of majority on 05.05.2004. After attaining majority, he applied for compassionate appointment on 27.10.2006 before the third appellant. However, it was rejected by the second appellant on 20.08.2010 stating that the application for compassionate appointment was made beyond the prescribed period of three years from the date of death of the respondent's father. An appeal filed by the respondent before the first appellant was also dismissed on 20.12.2013. Hence the respondent filed a writ petition before this Court in W.P.No.1335 of 2015 and this Court allowed the said writ petition on 03.11.2015 directing the authorities to consider the respondent's application on merits.

3.Challenging the order passed in the writ petition, the present writ appeal is filed by the Department.

4.The learned Additional Government Pleader appearing for the appellants has submitted that compassionate appointment cannot be claimed as a matter of right. He also submitted that appointments on compassionate grounds cannot be made after a lapse of reasonable period. He further submitted that at the time of the death of the respondent's father, one of the daughters of the deceased was aged about 16 years and hence on attaining the age of majority within three years, she should have filed an application for compassionate appointment.

5.The learned counsel for the respondent has submitted that the learned single Judge has dealt with the matter in proper perspective and ordered for consideration of the respondent's case for compassionate appointment on merits and hence the same does not require any interference.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It is seen that after attaining majority, within three years, the respondent has filed the application for compassionate appointment. But it is the stand of the appellants

that even though at the time of the death of the respondent's father, one of the daughter of the deceased was aged about 16 years and hence on attaining the age of majority within three years, she should have filed an application for compassionate appointment. Normally, a male issue is expected to take care of the family since the female issue would go out to another family and they would not be in a position to take care of the family dying in harness. Taking into consideration the facts and circumstances of the case, the learned single Judge has ordered to extend the relief to the respondent / writ petitioner, since he made the application within three years after attaining majority. Further, no documents have been produced on the side of the State to show that the respondent's family is not dying in harness.

8. In view of the above stated circumstances, we are not inclined to interfere with the impugned order passed by the learned single Judge and accordingly the writ appeal is dismissed. Consequently the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Director of School Education,
College Road, Chennai-600 006.

2. The District Educational Officer,
Connor, Nilgiris District.

3. The Headmaster,
Government High School,
Kinnakorai, Nilgiris District.

+1cc to Mr. DR. R. Gouri, Advocate, S.R.No.2762
+1cc to the Government Pleader, S.R.No.3362

W.A.No.1748 of 2017 and
C.M.P.No.22228 of 2017

AK (CO)
RRK (09/02/2018)