

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 11176 of 2017

and

W.M.P.No.12113 of 2017

V.Vijayaraghavan

...Petitioner

Vs

1.State of Tamil Nadu, rep. By its
Principal Secretary,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Chennai-600 009.

2.Director of Social Welfare,
SIDCO old building complex,
Guindy, Chennai-600 032.

3.Personal Assistant (Nutritious Meal)
to District Collector,
Salem District, Salem.

4.Commissioner,
Panchayat Union,
Gangavalli, Salem District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in Government Letter No.13658/Sa.Na.4-2/2016-1, Social welfare & Nutritious Meal Programme Department, dated 17.02.2017 and the order passed by the 2nd respondent in his proceedings Na.Ka.No.6830/SaUthi-1/2017 dated 17.03.2017 and the order passed by the third respondent in his proceedings Na.Ka.No.124/2015/SaUthi/2 dated 30.03.2017 and quash the same, and direct the respondents to consider the petitioner for compassionate appointment in any one of the post such as Office Assistant/Record Clerk/Junior Assistant and confer all the consequential benefits.

For Petitioner : Mr.C.Selvaraj
Senior Counsel
for M/S.C.S.Associates

For Respondents : Mrs.A.Shrijayanthi
Special Government pleader
for R1 to R3
: Mr.T.M.Pappiah for R4

O R D E R

The order of the 1st respondent issued in Government Letter No.13658/ Sa.Na.4-2/2016-1, Social Welfare and Nutrious Meal Programme Department dated 17.02.2017 and the consequential order passed by the 3rd respondent in his proceedings dated 30.03.2018, are under challenge in this writ petition.

2. The learned Senior Counsel, appearing on behalf of the petitioner, made a submission that the father of the writ petitioner K.Veerappan passed away on 01.04.2014, while he was serving as Noon Meal Organiser in Panchayat Union Elementary School, Chinnakarattur, Gangavalli Union, Salem District, leaving behind the mother of the petitioner, the petitioner and his elder sister. It is contended that the elder sister of the petitioner has already got married. Thus, the writ petitioner submitted an application seeking compassionate appointment.

3. The authority competent raised an objection by stating that in the event of the presence of a qualified female legal heir in the family, the other legal heirs are incompetent to submit an application seeking compassionate appointment as per the terms and conditions of the scheme. However, he sent a proposal to the Government, seeking relaxation of the conditions stipulated in the Government Orders. The Government passed an order in proceedings dated 17.03.2017, which is impugned in the writ petition, stating that in the presence of the eligible female legal heirs in the family, the application submitted by the next below legal heir cannot be entertained for the purpose of considering the appointment under compassionate grounds. In other words, the Government had declined to grant relaxation in respect of the conditions imposed in this regard under the scheme.

4. The Third respondent issued a consequential order in proceedings dated 30.03.2017 stating that the Director of Social Welfare also informed that during the presence of a female legal heir the next below legal heir cannot submit an application seeking compassionate appointment as per the Government orders

in force. Thus the grant of relaxation of rules is also declined in the case of the writ petitioner. Accordingly the proposal submitted in favour of the writ petitioner Mr. V.Vijayaraghavan was returned back to the original authority.

5. This Court is of the opinion that compassionate appointment is a non-statutory scheme and can never be construed as a legal right. The scheme of compassionate appointment being a special scheme should be implemented strictly in accordance with the terms and conditions stipulated in the Government orders in force. Relaxation can never be granted in a routine manner in respect of the conditions stipulated. The scheme of compassionate appointment has been implemented in order to mitigate the hardship arising on account of the sudden death of a Government servant in the family. The special scheme of compassionate appointment has been introduced to neutralise the penurious circumstances arising on account of the death of an employee. Thus relaxation can never be claimed as a matter of right, more specifically in respect of the special scheme like compassionate appointment. The proposals submitted in favour of the writ petitioner seeking relaxation was rejected by the Government and it was clarified that no such relaxation proposals can be sent by the authorities in all such similar cases. Thus it is reiterated that the scheme of compassionate appointment is to be implemented strictly by following the terms and conditions of the scheme. Thus the rejection of the case of the writ petitioner for grant of relaxation is in accordance with the terms and conditions of the scheme and there is no infirmity as such. However, it is made clear that in the event of receiving any application from the first female legal heir of the deceased employee the same shall be considered by the authorities in accordance with law.

6. With these observations the order impugned stands confirmed. Accordingly, the writ petition stands dismissed. However no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmm/rst

To

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Social Welfare and Nutritious Meal
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secretariat, chennai-600 009.

2.Director of Social Welfare,
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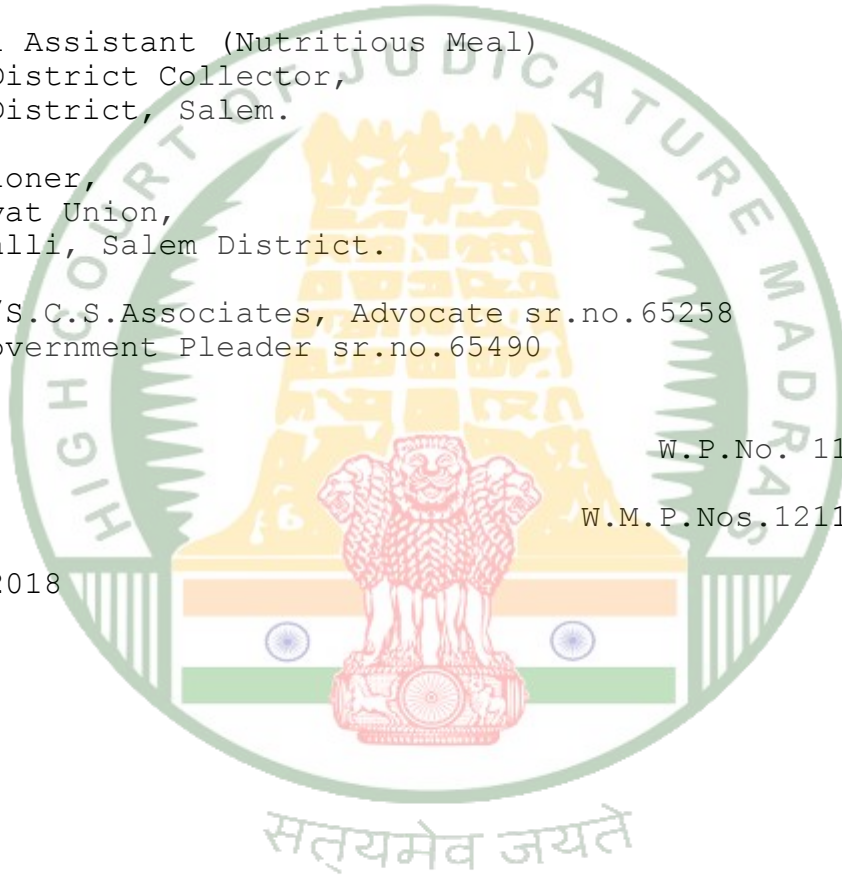
3.Personal Assistant (Nutritious Meal)
to District Collector,
Salem District, Salem.

4.Commissioner,
panchayat Union,
Gangavalli, Salem District.

+lcc to M/S.C.S.Associates, Advocate sr.no.65258
+lcc to Government Pleader sr.no.65490

W.P.No. 11176 of 2017
and
W.M.P.Nos.12112 and 12113

nr 25/10/2018



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