

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.32165 of 2014

C.Sham Kamalesh

... Petitioner

Vs

- 1.The Government of Tamil Nadu,
Rep by its Secretary,
Educational Department,
Fort St.George,
Chennai 600 009.
- 2.The Director of School Education,
College Road,
Chennai 600 006.
- 3.The Joint Director of School Education (Personnel),
College Road, Chennai 600 006.
- 4.The District Educational Officer,
Gopichettipalayam,
Erode District.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the 4th respondent herein in his proceeding Na.Ka.No.1841/A1/2014 dated 03.11.2014 and quash the same and consequently, direct the respondents herein to forthwith appoint the petitioner on compassionate ground as Junior Assistant with due seniority from 20.02.2014.

For Petitioner : Mr.S.Hemanand for
Mr.K.Raja

For Respondents : Mr.C.Munusamy,
Special Government Pleader

O R D E R

Heard Mr.S.Hemanand, learned counsel for the petitioner and Mr.C.Munusamy, learned Special Government Pleader appearing for the respondents.

2. The petitioner has approached this Court seeking the following relief:-

"To issue a Writ of Certiorarified Mandamus, to call for the records relating to the 4th respondent herein in his proceeding Na.Ka.No.1841/A1/2014 dated 03.11.2014 and quash the same and consequently, direct the respondents herein to forthwith appoint the petitioner on compassionate ground as Junior Assistant with due seniority from 20.02.2014."

3. The case of the petitioner is as follows:-

The petitioner's father was working as Headmaster in the Panchayat Union Middle School, P.Karattupalayam, Nambiyur Panchayat Union, Gopi Taluk, Erode District and died on 23.09.2002, while in service. At the time of his death, he left behind his widowed wife and two sons, one of the sons is the petitioner in this writ petition. On the death of the petitioner's father, an application was made for compassionate appointment and the same was not considered. Therefore, the petitioner had approached this Court by filing W.P.No.5839 of 2014 and the writ petition was disposed of on 15.09.2014, with a direction to consider the application of the petitioner for compassionate appointment.

4. In pursuance of the above direction by this Court, an order was passed by the fourth respondent on 03.11.2014, rejecting the request of the petitioner on the ground that the family was in receipt of income by way of pension and immovable asset and the petitioner's brother had also completed graduation in Engineering. It is also stated in the impugned order that the widowed wife of the deceased was also working in the College as she was a Post Graduate. The said order dated 03.11.2014, is put to challenge in the present writ petition.

5. The learned counsel for the petitioner would submit that the facts which formed the basis of the decision by the authority for rejecting the claim of the petitioner for compassionate appointment were not true. He would further submit that the mother of the petitioner was not employed and the family had borrowed an educational loan for educating the children.

6. However, it is admitted in the writ petition that they have immovable asset worth Rs.6.5 lakhs. It is also cannot be denied the fact of receipt of monthly pension that is being paid to the family. It is one of the reasons for not considering the request of the petitioner for compassionate appointment. Even otherwise, it is to be seen that the father of the petitioner died as early as 23.09.2002 and the application for compassionate appointment was belatedly submitted after several years.

7. The learned counsel for the petitioner would submit that at the time of his father's death, the petitioner was minor and therefore, the application was submitted only after he attained the age of majority.

8. However, this Court is unable to appreciate such arguments, since the compassionate appointment was meant to provide immediate financial assistance to the family of the deceased Government employee. The fact that the family had survived for 12 years would show that they were not in need of any employment assistance. In any event, such belated claim for compassionate appointment cannot be entertained even on merits.

9. This Court finds that the impugned order of rejection does not suffer from any infirmity and therefore, this Court finds that the writ petition is without any merit and the same is dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gsk

To

1.The Secretary,
The Government of Tamil Nadu,
Educational Department,
Fort St.George,
Chennai 600 009.

WEB COPY

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

3.The Joint Director of School Education (Personnel),
College Road, Chennai 600 006.

4.The District Educational Officer,
Gopichettipalayam,
Erode District.

+1cc to Mr.K.Raja, Advocate Sr.44383

+1cc to the Government Pleader Sr.44940

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srg 5/9/2018



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