

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1965 of 2018 and CMP.No.15681 of 2018

1. The District Collector,
Kancheepuram District,
Kancheepuram.
 2. The Tahsildar,
Sriperumbudur Taluk,
Sriperumbudur,
Kancheepuram District. Appellants
- Vs
- R.Prabu Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 12.06.2015 made in W.P.No.16659 of 2015 by a learned Single Judge.

Prayering in WP.No.16659/2015 : Petition filed under Article 226 of the constitution of India for the issuance of Writ of certiorarified Mandamus, calling for the concerned records relating to the order No.Na.Ka.26952/2009/A4 dated 10.05.2015 passed by the first respondent and quash the same consequently to direct the respondents to appoint the petitioner on compassionate grounds in any suitable post to which he is eligible.

For Appellants :: Mr.P.S.Siva Shanmuga Sundaram

For Respondent ::.....

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 12.06.2015 made in W.P.No.16659 of 2015 by a learned Single Judge.

2. The Writ Petition has been filed challenging the proceedings of the 1st respondent therein, namely, the District Collector, Kancheepuram District, Kancheepuram, dated 10.05.2015 and to quash the same and for a consequential direction, directing the respondents to appoint the petitioner therein on compassionate grounds in any suitable post for which he is eligible. The said Writ Petition was allowed by a learned Single Judge by order dated 12.6.2015. Aggrieved over the same, the State is before this Court with this Writ Appeal.

3. The matter is listed today under the caption, ''for admission''. Heard the learned Special Government Pleader appearing for the State. We have also carefully perused the materials available on record.

4. The case of the writ petitioner/respondent herein is that his father K.Raja, while he was working as a Village Assistant in Kancheepuram District, died on 02.07.2009. Initially, the wife of the deceased Government Servant, gave a representation to the appellants herein to give her compassionate appointment. While the same was pending consideration, she once again made a representation seeking compassionate appointment to her son, namely, the respondent herein. It appears that the impugned order was passed on 10.5.2015 rejecting the request for compassionate appointment to the respondent herein on the ground that when once an application seeking compassionate appointment to the widow of the deceased was filed, another application seeking compassionate appointment to her son is not at all maintainable. But in the Writ Petition filed by the writ petitioner, the learned Single Judge has directed the 1st appellant herein to consider the case of the writ petitioner/respondent herein and to pass orders within a period of 12 weeks from the date of receipt of a copy of that order. Aggrieved over the same, the present Writ Appeal has been filed.

5. At this juncture, it is pertinent to note that after 3 years from the date of the order i.e. on 12.6.2015 of the learned Single Judge, the present appeal has been filed belatedly by the State. Further, it is also pertinent to mention that both the applications have been filed within the period of limitation seeking compassionate appointment. Firstly, the criteria to be seen is as to whether the family members of the deceased employee suffer from indigent circumstances. Secondly, the person, who claims compassionate appointment, may be the wife or son of the deceased. But, it is an irrelevant factor for the appellants to decide as to whom such appointment has to be given. Because, it is the convenience and internal arrangement of the deceased family depending upon their future.

6. In the instant case, the mother herself intends to consider the application of her son seeking compassionate appointment, though she has initially given an application for the same. Therefore, it is clear that it is not a fight between two rival claimants, but, it is a matter of sympathy against the person who died in harness. Under such circumstances, it is for the appellant authorities to ascertain the status of the deceased employee's family as to whether the said family is in indigent position or not and then to consider the request of the respondent herein as a matter of choice. In view of all the above, we are of the opinion that the appeal is bereft of merits and the same is liable to be dismissed.

7. With the above observations, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

tsi

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Tahsildar,
Sriperumbudur Taluk,
Sriperumbudur,
Kancheepuram District

+1cc to Special Government Pleader SR.No.64572

GMV (10;]/10/2018)

W.A.No.1965/2018

WEB COPY