

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.19154 of 2015 and
W.M.P.No.19430 of 2016

S.John Sampath

... Petitioner

Vs

- 1.The State of Tamil Nadu
Rep by its Secretary to Government,
School Education Department,
Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Chennai 600 006.
- 3.The District Elementary Educational Officer,
Erode.
- 4.The Assistant Elementary Educational Officer,
Nambiyur, 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 pertaining to the order dated 08.03.2013 made in Na.Ka.No.2595/A1/2011 on the file of the 3rd respondent, quash the same and consequently direct the 3rd respondent to appoint the petitioner on compassionate ground as Secondary Grade Teacher in the place of his deceased Mother Mrs.D.Ranjitham, Secondary Grade Teacher, who died in harness on 08.07.2003 or any other suitable posts depending upon his qualification and eligibility, by considering his application dated 21.02.2005 and 17.08.2005 and to extend all benefits arising thereto.

For Petitioner

: Mr.V.Chandrasekaran

For Respondents

: Mrs.P.Kavitha,
Government Advocate

O R D E R

Heard Mr.V.Chandrasekaran, learned counsel for the petitioner and Mrs.P.Kavitha, learned Government Advocate 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 pertaining to the order dated 08.03.2013 made in Na.Ka.No.2595/A1/2011 on the file of the 3rd respondent, quash the same and consequently direct the 3rd respondent to appoint the petitioner on compassionate ground as Secondary Grade Teacher in the place of his deceased Mother Mrs.D.Ranjitham, Secondary Grade Teacher, who died in harness on 08.07.2003 or any other suitable posts depending upon his qualification and eligibility, by considering his application dated 21.02.2005 and 17.08.2005 and to extend all benefits arising thereto. "

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

The petitioner's mother was employed as Secondary Grade Teacher in Gandhipuram Panchayat Union Middle School, Nambiyur Union, Erode District, and died on 08.07.2003, while in service. She left behind her husband who was also a retired Government employee and one son, who is the petitioner herein and one daughter. The daughter of the deceased was also working in Government service.

4. In the said circumstances, the petitioner had made an application for compassionate appointment and the same having been rejected, he approached this Court earlier in W.P.No.14373 of 2011. This Court vide its order dated 07.01.2013, disposed of the writ petition and remitted the matter back to the authority concerned to consider the petitioner's application for compassionate appointment. This Court has remitted the matter back to the authority on the ground that initially the petitioner's application was rejected on two grounds viz., the representation was made after the period of three years limitation period and his sister was also working as a Government employee. Both the grounds were found to be invalid by this Court. Therefore, the learned Judge has remanded the matter back to the authority for fresh consideration.

5. In pursuance of the direction of this Court in the aforesaid writ petition, the authority has passed an order on 08.03.2013, once again rejecting the application for compassionate appointment of the petitioner. According to the

order that the application was not factually made within three years limitation period and her sister was also working in Government service.

6. The learned counsel for the petitioner would submit that the impugned order is per se illegal in nature, since the same reasons were cited in rejecting the claim of the petitioner. According to the learned counsel, because of the fact that the petitioner's sister is a Government employee, that cannot be a reason for denying the claim for compassionate appointment, if the petitioner is otherwise entitled to be considered favourably. According to the learned counsel, merely because of the family was in receipt of family pension, it cannot be also a sole reason for denying the benefit of compassionate appointment.

7. The learned counsel for the petitioner in this regard would draw the attention of this Court to an order passed by the learned Division Bench of this Court, in the case of C.Jayapal Vs. The Director of Medical Education and others, reported in 2005 (5) CTC 655. The learned Division Bench has held that merely one of the family members who was working in Government service, was living separately and not contributing anything to the family, cannot be the basis for denying consideration of claim for compassionate appointment. The learned counsel would submit that even in the above mentioned case also the family was in receipt of family pension.

8. However, this Court is unable to appreciate the arguments advanced on behalf of the petitioner for the simple reason that in addition to the reasons as put forth by the petitioner, the authority has passed the impugned order stating that the petitioner's father was also a retired Government employee and was earning pension for himself and he is still living.

9. In the said circumstances, the authority has taken into consideration the most relevant factors viz., the husband of the deceased was a retired Government employee and has been earning monthly pension, coupled with the fact that the daughter of the deceased, is also employed in Government service and the family was in receipt of family pension. In such circumstances, the authority who passed the impugned order had taken into consideration all the relevant materials and rightly held that the petitioner was not entitled to be considered for compassionate appointment. It is needless to mention that the benefit of compassionate appointment can be extended only to the family who are placed in indigent circumstances on the death of the employee concerned.

10. In this case, from the facts and the materials produced

before this Court, this Court is unable to appreciate how the claim of the petitioner could be considered favourably. Therefore, the authority has rightly rejected the claim of the petitioner.

11. In view of the above, this Court does not see any infirmity in the order passed by the authority. Therefore, the writ petition is devoid of merits and substance and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The Secretary to Government,
The State of Tamil Nadu
School Education Department,
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- 2.The Director of School Education,
College Road, Chennai 600 006.
- 3.The District Elementary Educational Officer,
Erode.
- 4.The Assistant Elementary Educational Officer,
Nambiyur, Erode District.

+1cc to Mr.V.Chandrasekaran, Advocate, S.R.No.44338

+1cc to the Government Pleader, S.R.No.44902

W.P.No.19154 of 2015

GSP(07/09/2018)

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