

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.02.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1482 of 2013 &
M.P.No.1 of 2013

1.The District Collector
Dharmapuri District
Dharmapuri.

2.The Tahsildar
Palacode Taluk
Dharmapuri District.

... Appellants

Vs.

P.Munusamy

... Respondent

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 03.11.2011 made in W.P.No.14143 of 2009, on the file of this Court.

WP.14143 /2009 Prayer: Writ petition praying to writ of mandamus to to call for the order passed by the 1st respondent in his proceedings No. Na. Ka. 6779/2008 (A4) dt.17.3.2008 and quash the same as illegal and consequently direct the 1st respondent to appoint the petitioner as Village Assistant within his jurisdiction.

For Appellants : Mr.V.Anandhamurthy
Additional Government Pleader
For Respondent : No appearance

J U D G M E N T

[Order of the Court was made by K.K.SASIDHARAN, J.]

The application submitted by the respondent for compassionate appointment was kept pending by the appellants. The application was rejected after a period of three years on the ground that the respondent was not having the required educational qualification. The order was challenged before this

Court. This Court allowed the writ petition and directed the appellants to consider the matter afresh. The appellants once again rejected the application on a different reason by saying that there is no Scheme for giving compassionate appointment to the legal representatives of the Village Assistant. The order was put in issue before the writ court. The learned Single Judge allowed the writ petition. Feeling aggrieved, the appellants have come up with this intra court appeal.

2. We have heard the learned Additional Government Pleader on behalf of the appellants. None appeared on behalf of the respondent.

3. The father of the respondent worked as a Village Assistant. He died in harness on 14 April, 2002. The respondent submitted an application for compassionate appointment immediately thereafter. The application was kept pending by the District Collector, Dharmapuri. The application was ultimately rejected by order dated 27 January, 2006 on the ground that he was not in possession of the requisite educational qualification. The order was challenged before the writ court in W.P.No.2638 of 2008. This Court, by allowing the writ petition by order dated 01 February, 2008 directed the respondent to resubmit his application along with the proof of his educational qualification, which was required to be possessed for appointment to the post of Village Assistant.

4. The respondent resubmitted his application on 27 February, 2008. The application was rejected once again by the first appellant by stating that there is no provision for grant of compassionate appointment to the wards of persons who have worked as Village Assistants and died in harness. The said order was challenged before the writ court.

5. The learned Single Judge found that the earlier ground for rejection was on a totally different reason. The application was rejected on the ground that the respondent was not in possession of the required educational qualification. When the respondent demonstrated that there was no particular qualification to the post of Village Assistant and it would suffice in case the candidate passed 5th standard and had the ability to ride a bicycle, the first appellant rejected the application on the ground that there was no provision for giving compassionate appointment to the legal representatives of the deceased Village Assistant.

6. The appellants have not produced any material to show that there is no post in the cadre of Village Assistant and that there is no Scheme for giving

compassionate appointment to the legal representatives of those who died in harness. The post of Village Assistant is a sanctioned post. Therefore, it is not open to the appellants to contend that there is no provision for giving appointment to the legal representatives of a Village Assistant by way of compassionate appointment. This aspect was considered by the learned Single Judge and the writ petition was rightly allowed. We do not find any reason to take a different view in the matter.

7. The learned single Judge directed the appellants to appoint the respondent as Village Assistant. We are of the view that such a positive direction was unwarranted without giving an opportunity to the appellants to consider the case once again on merits. We therefore, modify the order passed by the learned single Judge.

8. The appellants are directed to consider and dispose of the application submitted by the respondent for compassionate appointment on merits without rejecting it on the ground of educational qualification or the ground indicated in the order impugned before the learned Single Judge.

The intra court appeal is disposed of as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

gms

To

1.The District Collector
Dharmapuri District
Dharmapuri.

2.The Tahsildar
Palacode Taluk
Dharmapuri District.

+lcc to Government Pleader SR.No.13228

W.A.No.1482 of 2013

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