

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 17-04-2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.20669 OF 2016

T.Sathishkumar

...

Petitioner

-vs-

- 1.The District Collector,
O/o. the District Collectorate,
Sathuvachari,
Vellore District.
 - 2.The District Educational Officer,
O/o.the District Educational Office,
Vellore.
 - 3.The Additional Assistant Elementary Educational Officer,
Kaveripakkam,
Vellore District.
- ... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of writ of certiorarified mandamus, to call for the records relevant to the order in Na.Ka.No.1160/A1/2014, dated 02.09.2014, passed by the second respondent and quash the same as illegal, improper, unreasonable and thereby directing the second respondent to appoint the petitioner in any of the posts as per his educational qualification under the compassionate grounds in the respondents school.

For petitioner : Mr.B.Gopalakrishnan

For respondents: Mrs.R.Janaki,
Addl.Govt.Pleader.

O R D E R

The grievance of the petitioner in this Writ Petition is that though his mother died in harness when he was minor, his representation for compassionate appointment has been illegally and arbitrarily rejected by the second respondent vide the impugned order in Na.Ka.No.1160/A1/2014, dated 02.09.2014, and, as such, he has sought for a prayer to quash the same and issue

a writ of mandamus, directing his appointment on compassionate ground.

2. Though the impugned order is in Tamil vernacular, the sum and substance of the order, as submitted by the parties, is that the representation of the petitioner for compassionate appointment had been rejected, taking note of the fact that his family was not in distress, inasmuch as the husband of the deceased employee and also her daughters were in government employment on the date of her death.

3. In view of the undisputed facts in the impugned order and also the consent of the parties, this Writ Petition is taken up for final disposal.

4. Heard the submissions made by the learned counsel for the parties.

5. As it appears from the contentions raised in the Writ Petition, the mother of the petitioner, who was working as a Secondary Grade Teacher in Village Elementary School at Minnal Village Panchayat, Kaveripakkam, died in harness on 29.07.1987. At that time, the petitioner was minor. But, after he attained majority, he submitted a representation to the respondents for compassionate appointment. However, the said representation came to be rejected on the aforesaid ground. Hence, this Writ Petition, challenging the said rejection and also seeking for the relief, as stated earlier.

6. The Government has filed a counter, indicating the fact that the sole purpose of compassionate appointment under the scheme is to bail out the family of a government servant dying in harness in distress condition and, admittedly, in this case, the family of the petitioner not being in distress, even though the petitioner was then minor and thereafter he became major, the representation submitted by him for compassionate appointment has been rejected on merit, as his family was not indigent; more so, the Writ Petition is devoid of merit, when an earlier writ petition filed in this regard vide W.P.No.13592 of 2012, seeking similar prayer, was dismissed as withdrawn, by an order, dated 19.02.2015.

7. Learned counsel appearing for the petitioner submits that the petitioner being a minor and also a physically handicapped person, on becoming major, submitted an application; as such, the same cannot be said to be time barred and, on such premise, notwithstanding his father was serving, he deserves to be appointed on compassionate ground, as the Government, in such cases, is duty bound to appoint one of the family members of the employee, who die in harness, and, hence, the impugned order be quashed and the respondents be directed to appoint the petitioner.

8. The aforesaid contention of the learned counsel for the petitioner is controverted by the learned counsel for the respondents, submitting that the sole purpose of the scheme being to bail out the family in distress and as it being not disputed that the father of the petitioner, who happens to be the husband of the deceased government employee, so also his sisters are in government employment; as such being not distressed even otherwise, the petitioner having submitted his representation at a belated stage, the same was liable to be rejected, which was, accordingly, rejected by the impugned order hence the said order cannot be found fault with.

9. It would be apposite to mention that scheme of compassionate appointment was floated to help the family members of a government employee, who die in harness, by giving some employment according to the eligibility to one of his/her family members. The said scheme, which has been introduced in the year 1981 and revised from time to time was meant to help the bereaved family in distress.

10. In the instant case, the deceased employee died in the year 1987. By then, her husband was in service so also the other family members were. The petitioner was, then being minor, not eligible for appointment. It was only after attaining majority, he applied for compassionate appointment. By that time, the terms of compassionate appointment were revised by G.O.Ms.No.42, Labour and Employment, dated 12.03.2007, setting a limitation of three years. It is true, the said limitation is not applicable to the government servant, if the family members of the deceased employee, who died in harness, are minors, and it is only after attaining majority, they can seek such employment within the period of limitation. But, the entire purpose has been to bail out the family in distress and also the indigent family.

11. From the undisputed facts of this case, what is known is that the father of the petitioner was in government service and other family members were also in such service. Therefore, the family of the deceased government servant cannot be said to be in distress. Even otherwise, in the subsequent scheme, the petitioner, having not applied for appointment within the stipulated period, has no case. Further, earlier, the petitioner filed another writ petition vide W.P.No.13592 of 2012, for the reasons best known to him, seeking similar prayer, and he withdrew the same. Now, he filed the present Writ Petition with the same prayer. On such premise, the petitioner has come to this Court with an unclean hands.

12. Therefore, I am of the view that the Writ Petition filed by the petitioner, challenging the order of rejection to give him employment on compassionate ground on account of death

of his mother, who died in harness long before, viewed from any angle, is devoid of merit and, accordingly, dismissed. However, in the circumstances, there shall be no order as to costs. Consequently, the connected W.M.P.No.17752 of 2016 is also dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dixit

To

- 1.The District Collector,
O/o. the District Collectorate,
Sathuvachari,
Vellore District.
- 2.The District Educational Officer,
O/o.the District Educational Office,
Vellore.
- 3.The Additional Assistant Elementary Educational Officer,
Kaveripakkam,
Vellore District.

+1cc to Mr.B.Gopalakrishnan, Advocate sr.no.28508
+1cc to Government Pleader sr.no.28860

W.P.No.20669 OF 2016

nr 23/05/2018

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