

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24-10-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5931 of 2017

And

W.M.P.Nos.6340 and 6341 of 2017

S.Rajaraman

.. Petitioner

..Vs..

- 1.The Government of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Education 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 Elementary Educational Officer,
Cuddalore,
Cuddalore District.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 8.10.2016 in Moo.Mo.En.42425/J1/2016 passed by the second respondent and quash the same as illegal, arbitrary and unconstitutional and consequently direct the respondents to post the petitioner herein as Junior Assistant in the Office of the fourth respondent.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents: Mr.K.Karthikeyan,
Government Advocate.

O R D E R

The order issued by the second respondent in proceedings dated 8.10.2016, rejecting the claim of the writ petitioner for providing compassionate appointment particularly to the post of Junior Assistant, is under challenge in this writ petition.

2. The writ petitioner states that now he is working as a Driver in the Office of the District Elementary Educational Officer, Manjakuppam, Cuddalore-1 and he was appointed as driver on 30.10.2008 on compassionate grounds. The father of the writ petitioner late Shri R.Sambandam, who was employed as Headmaster, Panchayat Union Elementary School, Kattumannarkoil West, Kattumannarkoil Panchayat Union, passed away while he was in service.

3. On account of the sudden demise of the father of the writ petitioner, the family of the writ petitioner was in penurious circumstances and accordingly, the writ petitioner submitted an application, seeking appointment on compassionate grounds. Considering the vacancy position, the writ petitioner was appointed as a Driver on compassionate grounds in the fourth respondent's Office.

4. The learned counsel for the writ petitioner states that the writ petitioner is fully qualified for appointment to the post of Junior Assistant and therefore, once again his case should be considered for appointment to the post of Junior Assistant on compassionate grounds. The application submitted, in this regard, by the writ petitioner, was rejected by the Director of School Education in proceedings dated 8.10.2016.

5. The learned Government Advocate, appearing on behalf of the respondents, opposed the said contentions of the learned counsel for the writ petitioner, by stating that the compassionate appointment is a Special Scheme and the case of the writ petitioner was already considered favourably and he was appointed as Driver on compassionate grounds in the fourth respondent's Office. Therefore, there is no provision under the Scheme to provide another appointment to the writ petitioner on compassionate grounds to any other posts. If at all the writ petitioner is qualified, it is for him to participate in the process of selection for higher post and secure any public employments. Contrarily, the Scheme of compassionate appointment cannot be granted for the purpose of appointing the writ petitioner to any other posts.

6. This Court is of an opinion that compassionate appointment is an exception. Compassionate appointment is a

concession and Special Scheme. Thus, the scope of the Scheme, cannot be expanded to the writ petitioner, so as to provide appointment on second time for higher post of Junior Assistant. The very purpose and object of the compassionate appointment is to mitigate the circumstances arising on account of the sudden death of the Government employee. Thus, the appointment on compassionate grounds is to be provided to save the family and without any further delay. At the time of providing appointment on compassionate grounds, the authorities competent has to consider the qualification as well as the vacancy position available in the Department.

7. In the present case on hand, the writ petitioner was appointed on compassionate grounds to the post of Driver. Thus, the Scheme was extended in his favour. Under these circumstances, the second application submitted by the writ petitioner, seeking appointment to the post of Junior Assistant on compassionate grounds is certainly not maintainable and the authorities have rightly rejected the same.

8. All appointments to the public posts are to be made only by following the Recruitment Rules in force. Equal opportunity in public employment is a Constitutional mandate. Compassionate appointment, being an exception, cannot be implemented contrary to the terms and conditions stipulated in the Scheme. The Scheme of compassionate appointment is to be restricted strictly in accordance with the terms and conditions of the Government Orders. Any expansion or violation of the conditions will result in denial of equal opportunity to all other eligible candidates, who are aspiring to secure public employments through Open Competitive Process under the Constitutional Schemes. Thus, the Scheme is to be restricted as far as possible, since the very appointment on compassionate ground is in violation of Articles 14 and 16 of the Constitution of India.

9. This being the principles to be followed, this Court is of an opinion that the writ petitioner had already been appointed to the post of Driver on compassionate grounds. Even if the writ petitioner wishes to secure higher post, then he has to participate in the process of selection through Open Competitive Process, if any recruitment notice is issued as per the Rules in force.

10. In this view of the matter, the order passed by the second respondent, rejecting the claim of the writ petitioner, is in accord with the legal principles settled in the matter of compassionate appointments and there is no infirmity as such.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Education Department,
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- 2.The Director of School Education,
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Chennai-600 006.
- 3.The Joint Director of School Education (Personnel),
College Road,
Chennai-600 006.
- 4.The District Elementary Educational Officer,
Cuddalore,
Cuddalore District.

+ 1 cc to M/s. S. Haja Mohideen Gisthi, Advocate Sr.72904
+ 1 cc to Government Pleader Sr.73037

WP No.5931 of 2017

(CS-DR)
EU(01/11/2018)

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