

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26030 of 2017

K.Rajendiran

.. Petitioner

vs

1. The District Collector,
Namakkal District,
Namakkal.

2. The District Backward and Minority Welfare Officer,
Namakkal,
Namakkal District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the proceedings of the 2nd respondent in Na.Ka.111853/2013 (B1) dated 16.08.2017 and quash the same as illegal, incompetent and ultravires and consequently direct the 2nd respondent to appoint the petitioner on compassionate appointment in a suitable post as per the petitioner's qualification under the control of the 2nd respondent herein.

For Petitioner : Mrs.R.S.Maitreya

For Respondents: Mrs.Jayanthi
Special Government Pleader

O R D E R

The order of rejection dated 16.08.2017, in respect of the claim of the writ petitioner for compassionate appointment, is under challenge in the present writ petition.

2. The petitioner states that his sister who was employed as Hostel Watchman in Government Girls Hostel, Thiruchengode was passed away on 19.12.2011, while she was in service.

3. The sister of the writ petitioner was unmarried and the terminal and other service benefits were paid to the mother of the writ petitioner. The petitioner states that as per the

existing procedures, the legal heirs i.e., the brothers or sisters of the deceased employee are entitled to claim compassionate appointment. The petitioner claims that the family of the writ petitioner was supported by his sister and therefore, the family was in penurious circumstances and he is entitled for appointment on compassionate grounds.

4. The learned Government Pleader appearing on behalf of the respondents brought to the notice of this Court that as per the terms and conditions of the scheme of the compassionate appointment, more specifically, with reference to G.O.Ms.No.560, Labour and Employment, dated 03.08.1977. The term 'near relative' is defined and restricted to include only the wife / husband / unmarried daughter of the Government Servant who died in harness. Cases of near relatives such as brothers / sisters, etc., of the deceased Government servants should be excluded. Thus, the scheme of compassionate appointment is inapplicable, in respect of the case of the writ petitioner is concerned. This apart, the date of birth of the writ petitioner was 04.03.1969 and even at the time of death of the deceased employee, the writ petitioner was 44 years at the time of filing of the writ petitioner. The writ petitioner is aged about 47 years and therefore, he cannot be construed as an unemployed person for the purpose of providing an appointment on compassionate grounds.

5. This being the factum of the case, the order of rejection passed by the respondents that the scheme is not applicable for the brother / sister of the deceased employee and the writ petitioner was overaged, even at the time of death of the deceased employee is in accordance with the scheme of compassionate appointment and there is no infirmity as such.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

pns

To

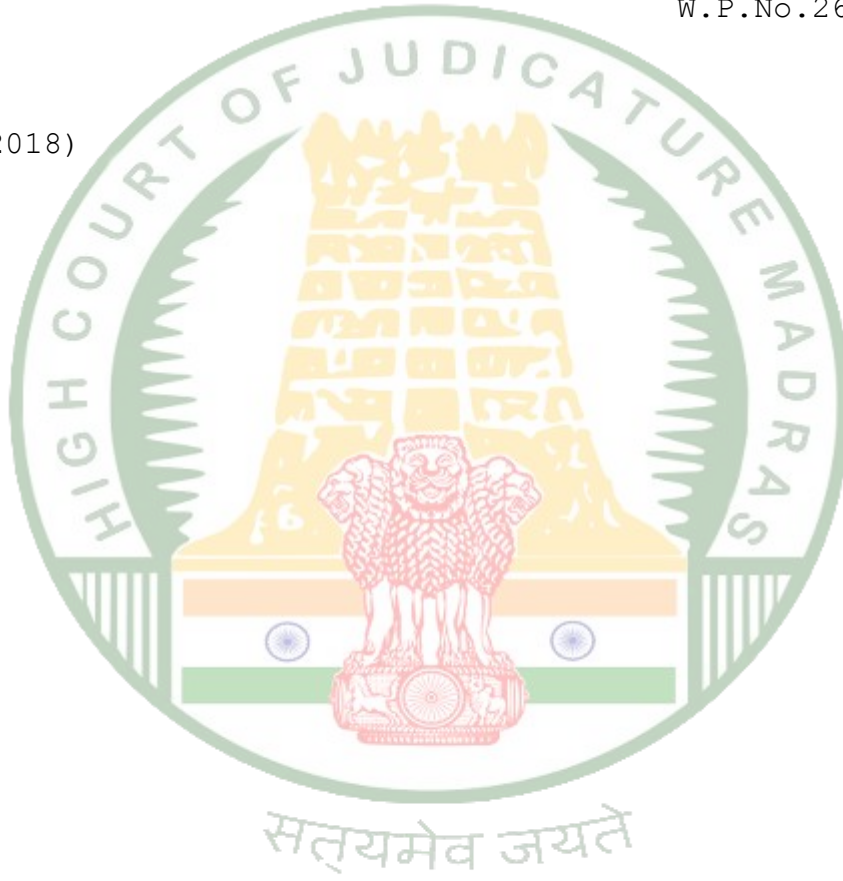
1. The District Collector,
Namakkal District,
Namakkal.

2. The District Backward and Minority Welfare Officer,
Namakkal,
Namakkal District.

+1 CC to Mr.Jayaprakash, Advocate sr 74632.
+1 CC to Govt. Pleader sr 75357.

W.P.No.26030 of 2017

MG (CO)
SP (22/11/2018)



WEB COPY