

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Cont.P.No.2449 of 2018

V.Rajakumaran

...Petitioner

Vs.

Thiru.Kumaresan,
The Revenue Divisional Officer,
Salem Division,
Salem.

...Respondent

Prayer: Contempt Petition filed under Section 11 of Courts Act, 1971, praying to punish the respondents for willful disobeying the orders in W.P.No.20142 of 2013 dated 19.12.2017.

For Petitioner : Mr.S.Kamadevan

For Respondent : Mr.R. Govindasamy
Spl. Govt. Pleader

ORDER

The Present Contempt Petition is filed to punish the respondent for willful disobedience of the orders of this Court dated 19.12.2017 passed in W.P.No.20142 of 2013.

2.The Writ Petition was filed, challenging the order of rejection in respect of claim of the Writ Petitioner for compassionate appointment. The short facts necessary to

understand the present case is that the Writ Petitioner submitted an application seeking compassionate appointment and same was rejected on 21.06.2013 on the ground that the writ petitioner was over aged and crossed the age limit of 35 years. The father of the writ petitioner Thiru. Vellaiyan was employed as Village Servant (Thalayali), and died on 05.09.2012, on account of cardiac arrest. The family of the writ petitioner was in penurious circumstances and was not in a position to meet out the day-to-day expenditures. Thus, the petitioner was hopeful in getting an appointment on compassionate grounds.

3.The rejection order was considered by this Court with reference to Special Rules made in Tamil Nadu Village Servants Service Rules, 1980. The learned counsel for the petitioner made a submission that as per the Special Rules, the age limit for Scheduled caste/Schedule Tribe, community is 45 years and therefore, the case of the writ petitioner ought to have been considered by the respondents. In view of the fact that the impugned order dated 21.06.2013, did not speak anything regarding the provisions of the Special Rules, this Court considered the case of the writ petitioner and passed an order, quashing the order impugned and directed the third respondent to reconsider the case of the writ petitioner for compassionate appointment on merits and in accordance with law and taking note of the Special Rules and pass orders within a period of twelve weeks from

the date of receipt of a copy of this order.

4.The learned counsel for the respondent now made a submission that pursuant to the orders of this Court, the case of the writ petitioner was reconsidered by the competent authority and an order was passed in proceedings dated 03.12.2018. As per the directions of this Court, the Competent Authorities / respondent considered the case of the writ petitioner with reference to the Special Rules made in Tamil Nadu Village Servants Service Rules, 1980. The order now passed in proceedings dated 03.12.2018 enumerates that the age relaxation granted in the Special rules is inapplicable in respect of the appointments made on Compassionate grounds. The age relaxation granted only for direct recruitment not for Compassionate appointment. Thus, the writ petitioner is not liable for appointment on compassionate grounds.

5.This apart, it is contended by the respondents that as of now, the writ petitioner is 48 years of age and his case is not considered in any event. This Court is of an opinion that compassionate appointment is a concession and special scheme. Concession can never be claimed as a matter of right. Concessions are to be granted by the competent authorities strictly with reference to the term and conditions stipulated in the scheme or in the Government orders. Compassionate appointment being violative of

Article 14 and 16 of the Constitution of India. The rights of all other eligible, meritorious candidates are infringed, if the scheme of compassionate appointment is extended without reference to the terms and conditions of the scheme. All such special schemes are to be restricted to the maximum possible. Such special schemes are implemented to mitigate the emergent circumstances arising on account of the death of the Government employee. Thus, the emergent circumstances and the need for public employment is to be considered strictly by the competent authorities. It is not as if one employment to be provided to one family of the deceased Government employee, that is not the object of the scheme. The object of the scheme is to mitigate the circumstances arising on account of the death of the Government servants.

6. Such being the purpose and object of the Act, this Court is of an opinion that the Special Rules made in Tamil Nadu Village Servant Service Rules are inapplicable in respect of the appointments to be made on compassionate grounds. The Rules are made for the purpose of direct recruitment and therefore the order passed by the Revenue Divisional Officer, Salem in proceedings dated 03.12.2018 is not in violative of the orders passed by this Court on 19.12.2017 in W.P.No.20142 of 2013. The respondent has not violated the orders of this Court and therefore, this Court is not inclined to consider the present contempt petition

under the Contempt of Courts Act, 1971.

7. Accordingly, the Contempt Petition stands dismissed.

No costs.

SD/-

ASSISTANT REGISTRAR (COMM. CASES)

mrm/kak

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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PS/10/01/2019

To

1. The Revenue Divisional Officer,
Salem Division,
Salem.

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