



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 19.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) .No.1210 of 2017
and
C.M.P. (MD) .No.8499 of 2017

1. State of Tamil Nadu,
Rep by the Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.
2. The Director of Elementary Education,
Chennai.
3. The District Educational Officer(In-Charge)
Pattukottai,
Thanjavur District.
4. The District Elementary Educational Officer,
District Elementary Educational Officer,
Thanjavur.
5. The Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Mathukur, Thanjavur District. .. Appellants/ Respondents

Vs.

N.Jeyakanth

...Respondent /Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD).No.11797 of 2011, dated 28.11.2016.

Prayer in WP(MD). 11797/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI MANDAMUS, calling for the records pertaining to the impugned order passed by the 3rd Respondent herein dated 02-09-2009 in his O.Mu.No.2344/A1/2009 and quash the same and



consequently direct the Respondents to appoint the Petitioner in any suitable post on Compassionate Ground in their Department with all monetary and service benefits.

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondent : Mr.B.Jameel Arasu

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.B.Jameel Arasu, learned counsel appearing for the respondent.

2.This appeal by the State is directed against the order passed in W.P.(MD).No.11797 of 2011, dated 28.11.2016.

3.The said writ petition was filed by the respondent/writ petitioner challenging the order passed by the third appellant, dated 02.09.2009 denying the appointment to the respondent/writ petitioner on compassionate ground. The respondent's father was working as a Headmaster in Panchayat Union Elementary School, Maravakadu, Thanjavur District and died in harness, on 21.06.2000 leaving behind his wife and three sons as his legal heirs. It is not in dispute that the respondent's mother made an application within the time seeking appointment for the respondent and the said application was received on 07.02.2002. However, the third appellant rejected the application in the year 2008 on the ground that the respondent had two elder brothers and they were unmarried. Once again an application was made, which was rejected in the year 2009 and therefore, the respondent preferred an appeal before the third appellant, which was rejected by order, dated 02.09.2009 on the ground that it was filed beyond the period of limitation.

4.The writ Court took into consideration the peculiar facts of the case and taking note of that the respondent and his mother have been agitating the matter ever since 2002 held that the delay cannot be put against the respondent for denying the employment. Furthermore, the Tahsildar after obtaining no objection certificate from the respondent's sibling, has forwarded the application for being considered favourably. At that point of time, the appellant Department did not insist that the respondent should establish that the family was not supported by his two elder brothers. The facts of the case clearly show that the respondent is entitled to be considered for being appointed on compassionate ground.



5. For the above reasons, the writ appeal is dismissed and the appellants are directed to implement the order passed by the writ Court within a period of 8 weeks from the date of receipt of a copy of this order. It is made clear that while implementing the direction issued by the writ Court, it is open to the appellants to verify the present financial status of the respondent. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

+ 1 cc TO Mr.B.Jameel Arasu , Advocate in SR No. 56408
+ 1 cc TO The Special Government Pleader in SR No. 56474

Ns
AE/SV MMS/SAR2/17.04.2018/3P/3C

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