



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) No.6813 of 2014

V.Anand

... Petitioner

Vs.

The District Educational Officer,
Thenkasi Taluk,
Tirunelveli District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent made in Na.Ka.No.610/A1/2009 dated 24.07.2013 and quash the same and consequently direct the respondent to grant compassionate appointment to the petitioner.

For Petitioner : Mr.M.Suresh Kumar

For Respondent : Mr.S.Dhayalan
Government Advocate

O R D E R

This Writ Petition has been filed seeking a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent made in Na.Ka.No.610/A1/2009 dated 24.07.2013 and to quash the same and consequently to direct the respondent to grant compassionate appointment to the petitioner.

2.Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3.The case of the petitioner is that his father Velusamy who was employed as B.T.Assistant in a Government School, died on 06.03.2000, leaving behind three children and his wife. The mother of the petitioner was not educated and in order to protect the family, the petitioner's brother Gurunathan, made an application for compassionate appointment well within three years from the date of demise of his father. When the said application was under consideration, suddenly Gurunathan passed away on 12.03.2007, though, Gurunathan was found to be eligible for appointment. Immediately, the petitioner made a representation to the respondent on 28.02.2008, to substitute the name of the petitioner in the place of his brother Gurunathan. However, the request of the petitioner was rejected by the respondent on the ground that the proposal for compassionate appointment cannot be changed from



one legal heir to another legal heir and that there is no provision for such modification in compassionate appointment.

4. It is very unfortunate that the Government took more than five years to take a decision but when a favourable decision was taken to accommodate Gurnathan, he passed away. The scheme of compassionate appointment is only to ensure that the family of the deceased employee is protected. Taking into account the indigenous circumstances, the petitioner's brother's case was considered. But, it is an act of God that the petitioner's brother passed away. However, the Government refused to give appointment to the brother of Gurnathan. The technical ground for rejecting the compassionate appointment to the petitioner is that there is no provision for modification of legal heir in the scheme of compassionate appointment. More than 10 years have gone by from the date of demise of the petitioner's brother Gurnathan.

5. Hence, this Court is of the view that the rejection by the respondent to consider the case of the petitioner on the ground that the proposal considered in favour of one legal heir cannot be considered in favour of another legal heir, cannot be accepted. Hence, the impugned order is interfered with and the same is set aside. The respondent is directed to consider the case of the petitioner, if he is otherwise eligible, within a period of three [3] months from the date of receipt of a copy of this order.

6. The Writ Petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The District Educational Officer,
Thenkasi Taluk,
Tirunelveli District.

+1cc to Mr. M. Suresh Kumar, Advocate Sr.No. 79883
+1cc to The Spl. Government Pleader Sr.No. 79668

MR

VB/SKN/SAR1/03.12.2018/2P/4C

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