



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD).No.3778 of 2013

and

M.P.(MD) Nos.1 and 2 of 2013

S.Balaganesan

... Petitioner

Vs.

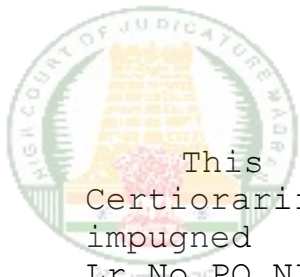
- 1) The Director of Agriculture,
Department of Agriculture,
Chepauk, Chennai 600 005
- 2) The Commissioner of Agriculture,
Department of Agriculture,
Chepauk,
Chennai 600 005
- 3) The Joint Director of Agriculture,
Department of Agriculture,
Tirunelveli.
- 4) The Assistant Director of Agriculture,
Department of Agriculture,
Tenkasi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned proceedings of the 1st and 2nd respondents in Lr.No.PO.NI.P1/11222/09 dated 17.03.2011 and Lr.No.PO.NI.P.1./4424/06 dated 30.01.2009 and quash the same and consequently directing the respondents to provide the petitioner a job under the respondent's Department on compassionate ground accordingly to his educational qualification.

For petitioner : Mr.S.Baskar Muthuram

For Respondents : Mr.R.Sethuraman,
Special Government Pleader

O R D E R

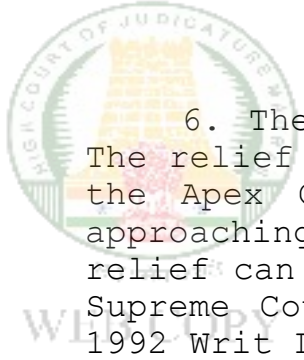
This Writ Petition is filed praying for a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned proceedings of the 1st and 2nd respondents in Lr.No.PO.NI.P1/11222/09 dated 17.03.2011 and Lr.No.PO.NI.P.1./4424/06 dated 30.01.2009 and quash the same and consequently issue a direction to the respondents to provide the petitioner with a job under the respondent's Department, on compassionate ground according to his educational qualification.

2. The petitioner has approached this Court challenging the impugned orders dated 17.03.2011 and 30.01.2009 issued by the 1st and 2nd respondents, rejecting his request made seeking employment on the ground of compassionate appointment based on his qualification. The petitioner's father died on 05.04.1994 and it is stated by the learned counsel appearing for the petitioner, that the petitioner made an application on 26.12.1994 and the same was rejected on 30.01.2009 and subsequently on 17.03.2011. The reasons for rejection as stated in the impugned order dated 17.03.2011 is that the application seeking for employment under the grounds of compassionate appointment has not been made by the petitioner within a period of three years from the date of death of the deceased.

3. Learned counsel for the petitioner would submit that on the date of death of his father, the petitioner was 09 years old (Date of birth: 18.01.1985). The request for compassionate appointment said to have been communicated from the office of the respondent to the wife of the deceased, appears to be not genuine. That apart, the said application was made by the mother of the petitioner and not the petitioner and it has also been stated that the application was made on 05.04.1994. It is really strange, as to how the wife of the deceased could have applied for compassionate appointment on the date of death itself. Hence, the petitioner has fabricated the documents and produced the same before this Court.

4. An order of rejection dated 30.01.2009 would make it very clear that the petitioner has not made any application within a period of three years from the date of death of his father. Taking note of the age of the petitioner, the petitioner has not made any application within the period of three years but after attaining majority, the impugned order dated 30.01.2009 rejecting the petitioner's request cannot be faulted with.

5. Compassionate appointment can never be claimed as a matter of right. It is needless to mention that the document dated 16.05.1994 filed by the petitioner in the additional typed set of papers is a fabricated one and it is open to the respondents to initiate criminal action, prior which, the pendency of the writ petition can be excluded for initiating criminal action against the petitioner for fabricating the government records and therefore, the issue has got to be brought to a logical end.



6. The petitioner has not come to the Court with clean hands. The relief sought by the person can be rejected at the threshold, as the Apex Court, in a number of cases has held that the person approaching the Court should come with clean hands, otherwise no relief can be granted and this principle has been reiterated by the Supreme Court in the following decisions:- (i) 1993 (1) MLJ 26 = 1992 Writ L.R. 716 (Madras High Court) (V.Tamil Selvan Vs. The State of Tamil Nadu):(ii)1983 (3) SCC 333 = AIR 1983 SC 622 = MANU/SC/0054/1983 (Dr.Vijay Kumar Kathuria and another Vs. State of Haryana and others) and (iii) 1994 (1) LW 21 (SC) = 1994 (1) SCC 1 (S.P.Chengalvaraya Naidu Vs. Jagannath). The same principles/yardstick shall be applicable in all situations.

7. Considering the facts and circumstances of the case, the petitioner is not entitled for the relief sought for. This Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

sts

To

- 1) The Director of Agriculture,
Department of Agriculture,
Chepauk, Chennai 600 005
- 2) The Commissioner of Agriculture,
Department of Agriculture,
Chepauk,
Chennai 600 005
- 3) The Joint Director of Agriculture,
Department of Agriculture,
Tirunelveli.
- 4) The Assistant Director of Agriculture,
Department of Agriculture,
Tenkasi,
Tirunelveli District.

+1cc to The Spl Government Pleader, SR No.81812

+1cc to Mr.S.Baskar Muthuram, Advocate in SR No.81619