

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-03-2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 4353 of 2018

J.Ambresh Kumar

... Petitioner

Vs

1. The Assistant General Manager
Bharat Heavy Electricals Limited
Boiler Auxiliaries Plant
Ranipet,
Tamil Nadu-632 406.

2. The Unit Head
Bharat Heavy Electricals Limited
Boiler Auxiliaries Plant
Ranipet,
Tamil Nadu-632 406.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus to call for the records on the file of the 1st respondent in BAP:HR:RMX dated 15.11.2017 and quash the same and further direct the 1st respondent to appoint the petitioner as according to his Educational Qualification on the ground of compassionate appointment.

For Petitioner

: Mr.V.Ashok Kumar

For Respondents

: Mr.P.John Zachariah
Fox Mendal Associates.

ORDER

The order of rejection dated 15.11.2017 rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2. The father of the writ petitioner was an employee in Bharat Heavy Electricals Limited and he died on 10.02.2015, while he was in service. On account of the sudden demise of the father of the writ petitioner, the family was in penury circumstances. The writ petitioner submitted an application on 14.06.2017 to provide appointment on compassionate grounds. However, the application was rejected by the respondent vide proceeding dated 15.11.2017, stating that the request for employment sought for by the writ petitioner cannot be considered in line with the existing recruitment policy of the compassionate appointment, under the category of 'employment of dependents of deceased employees'. In other words, there is no infirmity as such, in the scheme of compassionate appointment, to provide appointment on the death of the deceased employee working in Bharat Heavy Electricals Limited.

3. When there is no policy for providing compassionate appointment, this Court is of the opinion that there cannot be any direction to create such policy or directing the respondent to provide appointment, in violation of the recruitment rules in force.

4. Similar issue was considered by this Court in W.P.No.30601 of 2017 dated 11.10.2018 and relevant paragraphs are extracted here under:

3. The learned counsel appearing on behalf of the respondents states that as far as the respondent corporation is concerned the scheme of compassionate appointment is extended only in the event of death, during the course of an accident and in all other cases, the benefit of reservation is provided in respect of the appointment. Therefore, it is contended that the writ petitioner is not eligible to avail the benefit of compassionate appointment. However, in respect of the death of an employee on medical grounds, reservation is provided for appointments. Thus, the petitioner can avail the benefit of reservation, whenever a recruitment notification is issued by the respondents.

4. This Court is of an opinion that, the scheme of compassionate appointment is a special scheme and the scope of the scheme cannot be widened nor the rules can be relaxed by the authorities. The scheme being the special

one is to be implemented strictly in accordance with the terms and conditions of the scheme. This apart, the scheme being in violation of Article 14 & 16 of the Constitution of India, this Court is of an opinion that the authorities, while considering the cases of compassionate appointment has to consider the same would not affect the rights of all meritorious candidates who all are aspiring to secure public employment by participating through the open competitive process. Equal opportunities in public employment is the constitutional mandate. Thus, all appointments are to be made only under the constitutional schemes and by following recruitment rules in force.

5. The compassionate appointment is not a source of appointment. It is only a special scheme to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the scheme should be implemented only in respect of the cases falling within the parameters of the scope, object and terms and conditions of the scheme.

5. In view of the fact that the scheme does not permit providing such an appointment, the writ petitioner has to apply for suitable employment based on his qualification as and when the recruitment process is restored, through an open competitive process, advertised and notified by the respondent.

6. The writ petition is devoid of merits and there is no infirmity as such in respect of the impugned order passed by the respondent. The writ petition stands dismissed.

15.03.2019

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssb

To

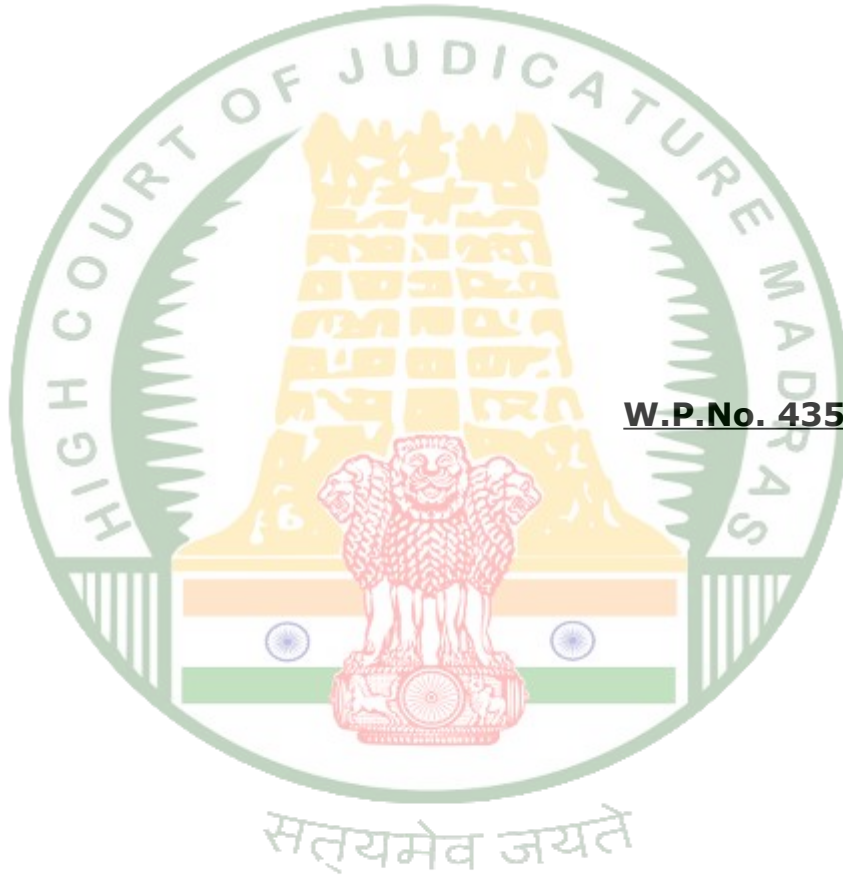
1. The Assistant General Manager
Bharat Heavy Electricals Limited
Boiler Auxiliaries Plant
Ranipet,
Tamil Nadu-632 406.
2. The Unit Head
Bharat Heavy Electricals Limited
Boiler Auxiliaries Plant
Ranipet,
Tamil Nadu-632 406.

सत्यमेव जयते

WEB COPY

S.M.SUBRAMANIAM, J.

ssb



W.P.No. 4353 of 2018

WEB COPY 15.03.2019