

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
and  
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.1637 of 2019

V.Teeban

... Appellant

Vs.

1. The Under Secretary (DP & AR) Department,  
Government of Puducherry,  
Chief Secretariat,  
Puducherry.
  2. The Deputy Director (Administration)  
School Education Department,  
Puducherry.
  3. The Chief Educational Officer,  
School Education Department,  
Puducherry.
- ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by the learned single Judge of this Court in W.P.No.93 of 2018 dated 11.02.2019.

Prayer in W.P.No.93/2018:Petition praying to issue a Writ of certiorarified Mandamus to call for the records relating to the impugned orders of the 2nd respondent dated 23.7.2010 and 3.8.2017 and to quash the same and consequently direct the respondents to consider the petitioner on compassionate appointment for the death of his father P.Vedamani (Peon Sri.V.Ramamurthy Government High School Maducarai Puducherry) Head Constable) who died on 16.3.2005 during the course of employment and to appoint the petitioner in their services for a suitable post.

For Appellants : Mr.C.Prabakaran

For Respondents: Mr.R.Syed Nustafa,  
Special Government Pleader.

## J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The application submitted by the appellant for compassionate appointment was rejected by the competent authority on the ground that he has not satisfied the conditions enumerated under the Scheme. The said order was challenged by the appellant before the writ Court. The learned single Judge, without issuing notice to the respondents, dismissed the writ petition. Feeling aggrieved, the appellant has come up with this intra Court Appeal.

2. We have heard the learned counsel for the appellant. We have also heard the learned Special Government Pleader appearing on behalf of the respondents.

3. The appellant, instead of challenging the impugned order before the Central Administrative Tribunal, filed a writ petition before this Court in W.P.No.93/2019. The learned single Judge was not pleased to issue notice to the respondents. The learned single Judge was not in a position to ascertain as to whether the matter has to be referred to the Tribunal for disposal.

4. We are of the view that the appellant ought to have challenged the order dated 03.08.2017 before the Central Administrative Tribunal. The High Court can exercise judicial review in respect of the order passed by the Tribunal. Since the matter is related to the Union Territory of Pondicherry, the appellant should have approached before the Central Administrative Tribunal at the first instance. The appellant ought to have filed the original application, instead of a writ petition. The question of judicial review would arise only after passing orders on merits by the Tribunal.

5. After hearing the learned counsel appearing for the parties, we are of the view that interest of justice would be subserved by permitting the appellant to file Original Application before the Central Administrative Tribunal. In case, any such application is filed on or before 22 July 2019, the same shall be entertained by the Tribunal for deciding the matter on merits. Since the appellant has been prosecuting the matter before this Court, the Tribunal shall not reject the original application on the ground of delay. We direct the Tribunal to consider the matter in accordance with law and pass appropriate orders on merits without in any way being influenced by the observation contained in the order dated 11.02.2019 in W.P.No.93/2018.

6. The intra Court Appeal is disposed of with the above direction. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Under Secretary (DP & AR) Department,  
Government of Puducherry,  
Chief Secretariat, Puducherry.
2. The Deputy Director (Administration)  
School Education Department, Puducherry.
3. The Chief Educational Officer,  
School Education Department, Puducherry.

+1cc to M/S.C.Prabakaran, Advocate Sr.54686  
+1cc to the Government Pleader for Puducherry Sr.55098

W.A.No.1637 of 2019

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srg 08/07/2019

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