

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.02.2019
CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A. No. 294 of 2016
and
C.M.P. No. 4664 of 2016

- 1.The Government of Tamil Nadu
Rep by Secretary to the Government
Rural Development Department
Fort St. George, Chennai - 9.
- 2.The Director of Rural Development
Panagal Building, Saidapet
Chennai - 15.
- 3.The District Collector
Coimbatore District, Coimbatore.
... Appellants/ Respondents
Vs.
K.Jenkins ... Respondent/ Petitioner

Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 07.04.2014 made in W.P. No. 7582 of 2007, filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order in Memo. O.Mu.No.2742/2000, dated 8.3.2000 on the file of third respondent, quash the same and direct the respondents to appoint him as Assistant Engineer/Junior Engineer in consideration of his technical qualification of B.E. Degree.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondent : Mr.D.Aravindan

J U D G M E N T
(Judgment of the Court was delivered by K.K.SASIDHARAN,
J.)

The respondent was given compassionate appointment by the appellants as Junior Assistant. Thereafter, the respondent submitted a representation for appointing him to the post of Junior Engineer, taking into account his educational qualification. The said request was negatived

by order dated 08.03.2000 on the file of the District Collector at Coimbatore. The order was challenged before the writ court. The learned Single Judge directed the appellants to consider the case of the respondent for appointment to the post of Assistant Engineer/Junior Engineer, taking into account his qualification. The said order is put in issue in this intra court appeal.

2.We have heard the learned Special Government Pleader for the appellants and the learned counsel for the respondent.

3.The respondent was given appointment, taking into account his indigent status, consequent to the death of his father, who was an employee of Sultanpettai Panchayat Union, Coimbatore. The respondent was given appointment as Junior Assistant at Avinashi Panchayat by order dated 06.08.1996. The respondent appears to have made a representation on 21.02.2000 to give him appointment in the post of Junior Engineer. This request was rejected, which according to us rightly by the District Collector.

4.The learned Single Judge proceeded as if the application for compassionate appointment should be processed, taking into account the particular qualification possessed by the respondent. The higher qualification possessed by the candidate has no bearing on compassionate appointment.

5.Though he was in possession of higher qualification making him eligible for appointment to the post of Junior Engineer, the respondent was given only the post of Junior Assistant taking into account the scheme for compassionate appointment. There is no right to claim a higher post when the compassionate appointment is given. This fundamental aspect with regard to the compassionate appointment was not considered by the learned Single Judge. We are therefore of the view that the appellants must succeed.

6.The order dated 07.04.2014 is set aside. The writ petition in W.P. No. 7582 of 2005 is dismissed.

7.In the upshot, we allow the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to the Government
Rural Development Department
Fort St. George, Chennai - 9.

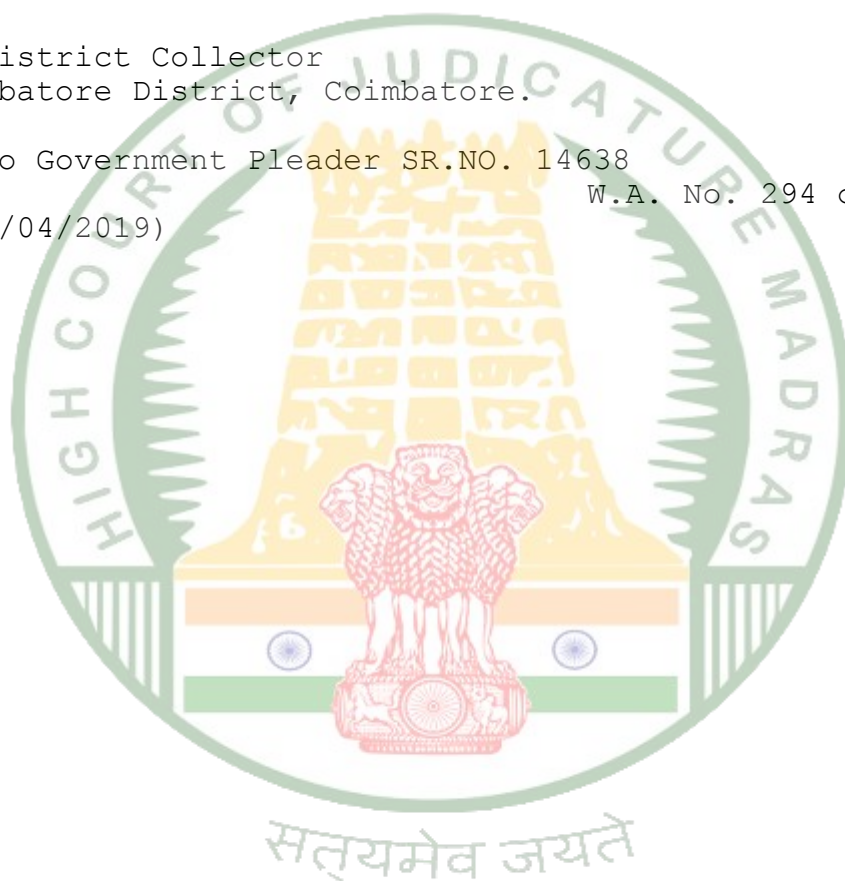
2.The Director of Rural Development
Panagal Building, Saidapet
Chennai - 15.

3.The District Collector
Coimbatore District, Coimbatore.

+1 cc to Government Pleader SR.NO. 14638

W.A. No. 294 of 2016

A.SK(03/04/2019)



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