

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.15107 of 2017

and W.M.P.No.16380 of 2017

T.M.Sivakumar

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Labour and Employment Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director,
Employment and Training Department,
Guindy,
Chennai - 600 032.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of 2nd respondent in Na.Ka.No.31961/Pa.A4/2014-1, dated 06.01.2017 and to quash the same and consequently direct the respondents to appoint the petitioner to the post of Office Assistant on compassionate ground in relaxation of age within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.A.Zakkir Hussain,
Government Advocate

O R D E R

The writ petitioner is in the second round of litigation and has filed the present writ petition seeking a certiorarified mandamus, quashing the proceedings of the second respondent, the Director, Employment and Training Department, dated 06.01.2017 and further praying for a direction to the respondents to appoint him to the post of Office Assistant on compassionate grounds by relaxing his age.

2. The petitioner's father, who was employed as an Office Assistant in the Employment and Training Department for more than 20 years, passed away on 02.02.1989. Thereupon his mother was appointed in his fathers' place on compassionate grounds in August, 1989. After working more than 23 years in the same office, she passed away on 21.07.2018, behind four legal heirs, one of whom is the petitioner herein. Admittedly, the petitioner holds the requisite

qualification of pass in 10th standard, for appointment in the same post on compassionate grounds. His application for compassionate appointment was submitted on 27.08.2013, enclosing No Objection certificate from his siblings. Since he was 37 years at the time of application, the application was rejected on 18.12.2013, on the ground that he has crossed the permissible age limit of 35 years.

3. Challenging the rejection of the application, the petitioner filed W.P.No.6260 of 2014, which was dismissed on 17.03.2014, on the ground that relaxation of age is not a matter of right.

4. Aggrieved over the same, the petitioner preferred W.A.No.559 of 2014 and a Division Bench of this Court, by order dated 12.08.2014, set aside the order passed in W.P.No.6260 of 2014, directing the second respondent therein to refer his application to the Committee constituted with reference to paragraph No.20 of the Chief Minister's Standing Order No.2, Personnel and Administrative Reforms Department, dated 09.01.1992 as well as G.O.Ms.155, Labour and Employment Department, dated 16.07.1993, within a period of two weeks from the date of receipt of a copy of the order. Further, the Committee was directed to consider the question of relaxation and also consider the scope and applicability of G.O.(Rt).No.9, Labour and Employment (Q1) Department, dated 19.01.1998. The aforesaid exercise was to be completed within a period of eight weeks.

5. It is pursuant thereto that the present impugned order has been passed, wherein the second respondent has stated that the application of the petitioner is unfit for being placed before the Committee. This order is contemptuous, to say the least, of the decision of the Division Bench of this Court dated 12.08.2014. The direction of the Division Bench as aforesaid has been issued recording the submission of the learned Additional Government Pleader, for the State of Tamil Nadu and Director of the Department of Employment and Training whose request was that the Committee be directed to consider the grievance of the petitioner on merits and in accordance with law.

6. There is a specific direction issued by the Division Bench to the second respondent therein to forward the application to the Committee for consideration of relaxation of age of the petitioner and further a direction to look into the merits of the application and pass orders within a period of eight weeks. The second respondent has clearly over stepped in flouting the order of the Division Bench of this Court and not placing the application before the Committee as directed. Though inclined to issue a notice for contempt, this court refrains from doing so and directs the concerned official to exercise more caution in future.

7. In the light of the aforesaid judgement passed in W.A.No.559 of 2014, the second respondent is directed to forward the application of the petitioner to the Committee within a period of two weeks from today reiterating the order passed by the Division Bench. The Committee will consider the question of relaxation of age of the

petitioner and also consider the scope and applicability of G.O. (Rt).No.9, Labour and Employment (Q1) Department, dated 19.01.1998 and pass appropriate orders, after hearing the petitioner, on merits and in accordance with law, within a period of four weeks thereafter.

8.This writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Labour and Employment Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Director,
Employment and Training Department,
Guindy,
Chennai - 600 032.

+1 CC to M/S.The Govt.Pleader SR.NO.36323/2019

+1 CC to M/S.G.SANKARAN Advocate SR.NO.35733/2019

सत्यमेव जयते

W.P.No.15107 of 2017
and

W.M.P.No.16380 of 2017

SSP (CO)
cm 26/06/2019

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