



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.03.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.A. (MD) No.346 of 2019

M.Ramar

: Appellant

Vs.

1.The District Collector,
Ramanathapuram District.

2.The Assistant Accountant,
Social Welfare and Nutritious Meal Programme Department,
Collectorate,
Ramanathapuram District.

3.The Commissioner,
Panchayat Union,
Mudukulathur,
Ramanathapuram District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order passed in W.P.(MD) No.23850 of 2017, dated 19.01.2018.

Prayer in WP(MD). 23850 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus challenging the impugned order dated 03.07.2017 passed by the respondent as illegal, quash the same and consequently directing the 1st respondent herein to appoint the petitioner on Compassionate ground in the place of her mother Late. Gyanathiraviyam who died in harness on 11.06.2015 by considering his representation dated 22.02.2016

For Appellant	: Mr.M.S.Suresh Kumar
For Respondents 1 & 2	: Mr.A.K.Baskara Pandian Special Government Pleader
For Respondent 3	: Mr.J.Gunaseelan Muthiah

**JUDGMENT**

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

The appellant's mother was employed as Cook in T.E.L.C. Primary School Nutrition Centre at Kakkoor, Mudukulathur Panchayat Union. It is stated that the appellant's mother died on 11.06.2015 leaving behind the appellant, his father and three sisters as legal heirs. Stating that all the three sisters of the appellant were given in marriage during the life time of his mother, the appellant applied for the post of Noon meal Organiser on compassionate ground. The said application was rightly dismissed, however, with an observation that the appellant may apply for the post of Cook in the Noon meal Centre. Thereafter, the appellant's application to appoint him as Cook on compassionate basis was also rejected as the mother of the appellant had three other daughters and that therefore, male heir of the appellant's mother cannot be given appointment. Challenging the said order, the appellant filed a Writ Petition in W.P.(MD)No.23850 of 2017.

2.Sum and substance, the appellant's contention was that his three sisters and father had given No Objection and that therefore, the respondents ought to have given him the post in which the appellant's mother was working. The learned Single Judge after referring to G.O.Ms.No.78, Social Welfare and Nutritious Meal Department, dated 25.10.2016, dismissed the Writ Petition on the ground that seeking compassionate appointment is not a matter of right and that unless the rules and regulations framed by the employer permits compassionate appointment, he cannot seek employment on compassionate ground. The Government Order relied on by the learned Single Judge vide G.O.Ms.No.78, Social Welfare and Nutritious Meal Department, dated 25.10.2016 is with reference to the position that female heir of Cook alone is entitled to succeed to the compassionate appointment. Pointing out that the appellant wanted only the post of Cook and not the post of Organiser in the Noon Meal Centre, the learned Counsel appearing for the appellant submitted that the order of the learned Single Judge assuming that the appellant's mother was working as a Noon Meal Organiser is erroneous and therefore, the Writ Petition has to be allowed. We find no reason to interfere with the order for the following reasons:

(a) The appellant himself applied for appointment to the post of Noon Meal Organiser even though he is not entitled to as his mother was working only as a Cook.

(b) The application itself was inappropriate and shows the intention of the appellant. Later the appellant renewed his request to get the post of Cook.

(c) The rejection of the appellant's request was only on the basis of the regulation of the Government not to give appointment to the male heir of the female Cook in case of her demise during employment. As already pointed out by the learned Single Judge, no



person is entitled to get appointment on compassionate ground as a matter of right, unless there is a provision which is enabling the appellant to seek appointment on compassionate ground. No discretion is vested with this Court in exercise of Writ Jurisdiction. In this Case, it is rightly pointed out that the Government Order only enables a female heir to get compassionate appointment. The appellant being a son, despite the fact that the sisters had no objection, cannot get appointment on compassionate ground.

3. In the result, this Writ Appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

srm

To

1. The District Collector,
Ramanathapuram District.
2. The Assistant Accountant,
Social Welfare and Nutritious Meal Programme Department,
Collectorate,
Ramanathapuram District.
3. The Commissioner,
Panchayat Union,
Mudukulathur,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-56574[F] dated 26/03/2019)

+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-56004[F] dated 22/03/2019)

ORDER MADE IN
W.A. (MD) No.346 of 2019
22.03.2019