



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2620 of 2015

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Sri Karuppasamy Seshan

... Petitioner

vs.

The District Collector

Tirunelveli District, Tirunelveli

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the proceedings of the 1st respondent in Nee.Mu (A4)1565/2014 dated 06.01.2015 and to quash the same as arbitrary, illegal, null and void, unsustainable and direct the 1st respondent to appoint the petitioner in suitable job according to his qualification under compassionate appointment in Tirunelveli District within a time stipulated by this Court.

For Petitioner : Ms.D.Geetha

For Respondent : Mr.M.Jeyakumar

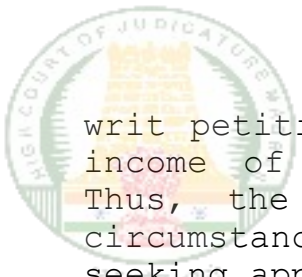
Additional Government Pleader

O R D E R

The order of rejection, dated 06.01.2015, passed by the respondent, rejecting the claim of the writ petitioner for appointment on compassionate grounds is under challenge in the present writ petition.

2. The mother of the writ petitioner was employed as Village Administrative Officer in Punnaivanam Village, Sankarankoil Taluk, Tirunelveli District and she passed away on 30.12.2008, while she was in service.

3. The learned counsel for the writ petitioner made a submission that the writ petitioner is the son of the deceased employee and he submitted an application on 02.02.2009 to the respondent seeking appointment on compassionate grounds. The claim of the writ petitioner was rejected by the respondent after a lapse of six years by stating that the husband of the deceased employee was also a Government servant and was receiving pension at the time of death of the mother of the writ petitioner. This apart, the deceased employee, who is the mother of the writ petitioner, was holding the post of Village Administrative Officer and even after her death, the family was receiving the monthly pension of Rs.15,248/- and accordingly, the annual income of the family, only with reference to the family pension, during the relevant point of time was Rs.1,82,976/-. In view of the fact that the family of the



writ petitioner was receiving two family pensions, the total annual income of the family of the writ petitioner was Rs.2,72,184/-. Thus, the family of the writ petitioner was not in indigent circumstances and accordingly, the case of the writ petitioner seeking appointment on compassionate grounds was rejected.

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4. The learned Additional Government Pleader appearing for the respondent states that on the basis of the application submitted by the writ petitioner seeking appointment on compassionate grounds, the authorities competent conducted an enquiry with reference to the penurious circumstances of the family of the writ petitioner so as to consider the case of the writ petitioner with reference to the terms and conditions of the scheme. In this regard, the following facts are provided in the counter affidavit filed by the respondent, which are extracted hereunder:

"4. It is submitted that the reports sent by the subordinate officers were found to be incomplete and not withstanding to with reference to Government orders, further reports were called for, which caused delay in deciding the issue. The reports received from subordinate officers were scrutinized with reference to Government orders and found that the Writ Petitioner's father is also a Government Pensioner, receiving pension along with his wife's family pension and the total income of the family comes Rs.22682/- per month and it may increase due to revision of DA periodically. Further his family consists of only 3 members. Hence his request was rejected in this office R.Dis.1565/2014 dated 10.03.2015 on the ground that the family is not in indigent circumstances as per G.O.Ms.No.40 Labour and Employment department dated 05.01.90.

Aggrieved by this above orders, he filed this Writ Petition.

The Grounds are discussed as below:

- i) It is submitted that orders were issued with reference to Government orders and subsequent instructions issued by the Government then and there. Hence, there is no illegally committed in the case.
- ii) It is submitted that the Government Order referred to by the writ petitioner states, that if there is any member of the deceased family in Government service or Government undertakings, other dependent is not entitled for appointment on compassionate ground. In this instant case the husband of the deceased is retired Government servant receiving pension as well as his wife's family pension. Hence the petitioner is not eligible for appointment on compassionate ground.



It is further submitted that the Hon'ble Madras High Court in similar case in WP.No.8343/2007 of Tmt.S.M.Joice Verses Collector, Tirunelveli observed as follows:

"The wife of the deceased was not only gets pension, but also receiving family pension after the death of her husband. That this court is not able to disagree the order of the interpreted order holding that the petitioner's family is not in indigent circumstances. Therefore the Writ Petition fails and is dismissed."

iii) It is submitted that the contention of the writ petitioner is not relevant to the G.O.No.500 Labour and Employment Department dated 03.08.77, wherein it is stated that the contention of the family has to be decided and not about the status of the application.

iv) It is submitted that the contention of the Writ Petitioner cannot be accepted, since nothing except Government orders and reports of the subordinate officers were quoted in the order issued in this office R.Dis.1865/2014 dated 06.01.2015."

5. Compassionate appointment is a special scheme. Compassionate appointment is a concession. Appointment on compassionate grounds can never be claimed as a matter of right. Scheme of compassionate appointment is to be implemented strictly in accordance with the terms and conditions. Appointment on compassionate grounds being in violative of Articles 14 and 16 of the Constitution of India. The State must implement the special schemes cautiously and in a restricted manner so as to ensure that equal opportunity is provided in the public employment. In the event of large scale special appointments without following the rules in force, the constitutional rights of all other eligible candidates are infringed. Thus, such special schemes should not exceed the limits and the same is to be implemented in accordance with the terms and conditions.

6. The scheme of compassionate appointment is implemented to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the penurious circumstances are the vital factors to be assessed by the competent authority before extending the benefit of the scheme of compassionate appointment.

7. In the present case on hand, the authorities competent conducted an enquiry and ascertained the monthly as well as the annual income of the family of the writ petitioner. Even with reference to the two family pensions sanctioned in favour of the family of the writ petitioner, the family was receiving the annual income of Rs.2,72,184/-. This apart, the other incomes are not stated and no such details are furnished. This apart, the writ



petitioner, even at the time of filing of the writ petition, was aged about 40 years and now, he would be aged around 44 years and over aged. Under these circumstances, the scheme of compassionate appointment cannot be extended in favour of the writ petitioner after a lapse of about 11 years from the date of the death of the employee and considering the fact that the family of the writ petitioner is not in penurious circumstances as per the assessment made by the competent authorities. Thus, the writ petitioner has not established any acceptable legal ground for the purpose of extending the benefit of such special scheme, like, compassionate appointment.

8. Accordingly, the writ petition is devoid of merits and it is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

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To:

The District Collector,
Tirunelveli District, Tirunelveli.

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W.P. (MD) No.2620 of 2015
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CS: (26/06/2019) 4P 3C