

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 23.07.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) .No.13401 of 2014**

WEB COPY

1.Shahul Hameed (died)

2.Mohideen Abdul Khadar

... Petitioner

[2nd Petitioner is substituted vide order dated
23.07.2019 in W.M.P. (MD) No.13930 of 2016]

-Vs-

1.The Secretary of Government of Tamil Nadu,
Department of Labour and Employment,
Chennai-9.

2.The District Collector,
Madurai District, Madurai.

3.The Block Development Officer,
(Village Panchayats),
Madurai East, Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to provide appointment to the petitioner's son namely, Mohideen Abdul Kadher S/o. Shahul Hameed, on Compassionate ground in view of the Government Order in G.O.Ms.168, dated 19.10.2000 issued by the 1st respondent, within the period stipulated by this Court.

For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.D.Muruganandham

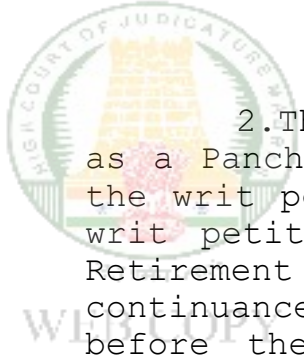
Additional Government Pleader

(for R-1 and R-2)

No Appearance (for R-3)

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to provide appointment to the original writ petitioner's son on Compassionate ground. The original writ petitioner, who filed a writ petition, Mr.Shahul Hameed passed away during the pendency of the writ petition. Subsequently, the name of the son of the writ petitioner Mr. Mohideen Abdul Kadher has been substituted.



2.The original writ petitioner Mr.Shahul Hameed was employed as a Panchayat Clerk. The learned counsel appearing on behalf of the writ petitioner states that on account of certain illness, the writ petitioner has opted to get retirement under the Voluntary Retirement Scheme. However, he was medically not fit for continuance of his job and that was also placed for consideration before the authorities at the time of accepting the Voluntary Retirement Scheme application. On this ground, the learned counsel for the writ petitioner states that the writ petitioner was relieved under the Voluntary Retirement Scheme, based on his illness and therefore, the petitioner's son is eligible for appointment on compassionate ground.

3.As per the terms and conditions of the scheme of compassionate appointment, if an employee is declared as not fit to continue in service, based on the medical report of the competent Medical Board and if the competent authority accepted the medical report and medically invalidated the employee concerned and if the medical invalidation pension scheme is implemented then alone, a legal heirs of the employee is entitled to avail the benefit of the scheme of compassionate appointment and not otherwise.

4.The order of relieving issued to the original writ petitioner in proceeding, dated 27.02.2013 categorically states that the writ petitioner is allowed to retire from service under the Voluntary Retirement Scheme. When the District Collector passed an order allowing the writ petitioner to retire from service under the Voluntary Retirement Scheme, the benefit of the medical invalidation scheme is not available to the petitioner or to his legal heirs when the Voluntary Retirement Scheme is no way connected with the medical invalidation of an employee from service. This Court is of the considered opinion that the legal heirs of the original writ petitioner are not entitled for any appointment under the compassionate appointment scheme. This being the legal principles, this Court is not inclined to consider the case of the writ petitioner with reference to the relief sought for in the present writ petition.

5.Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary of Government of Tamil Nadu,
<https://hcservices.ecourts.gov.in/hcservices/>
 Department of Labour and Employment,
 Chennai-9.



2.The District Collector,
Madurai District, Madurai.

+1 CC to Mr.N.SATHISH BABU, Advocate (SR-77133[F]dated 24/07/2019)
+1 CC to SPL GP (SR-77261[F] dated 24/07/2019)

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23.07.2019

SJI

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