



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.12134 of 2018

J.Gladson Julius

.. Petitioner

Vs.

1.The District Educational Officer,
District Educational Office,
Aranthangi, Pudukottai District.

2.The District Elementary Educational Officer,
Pudukottai District, Pudukottai.

3.The Assistant Elementary Educational Officer,
Aranthangi Union,
Pudukottai District,
Pudukottai.

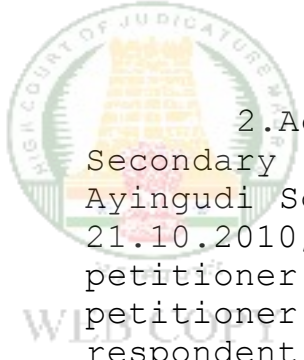
... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 1st Respondent in OH.Mu.No. 436/A1/2017 dated 22.3.2017 which was confirmed in OH.Mu.No. 463/A1/2017 dated 8.5.2017 and in OH.Mu.No.1938/A1/2017 dated 17.7.2017 and quash the above proceedings and direct the Respondents to appoint the Petitioner on compassionate ground for the death of his mother D.Hethsial Selvakumari.

For Petitioner	: Mr.C.Vakeeswaran
For Respondents	: Mrs.S.Srimathy Special Government Pleader

ORDER

This writ petition has been filed seeking to quash the impugned orders passed by the 1st respondent in OH.Mu.No.436/A1/2017 dated 22.03.2017, confirmed in OH.Mu.No.463/A1/2017 dated 08.05.2017 and in OH.Mu.No.1938/A1/2017 dated 17.07.2017 and consequently direct the respondents to appoint the petitioner on compassionate ground.

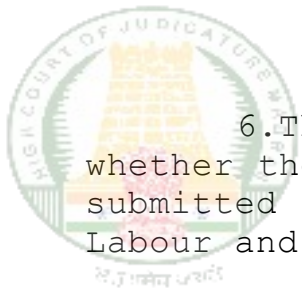


2. According to the petitioner, his mother was working as a Secondary Grade Teacher at Panchayat Union Primary School, Ayingudi South, Aranthangi Union, Pudukottai District. She died on 21.10.2010, while in service. At the time of death of the petitioner's mother, the petitioner was aged about 12 years. The petitioner's father made an application before the third respondent on 10.10.2013, seeking appointment to the petitioner on compassionate ground. Thereafter, after attaining majority, the petitioner made a representation to the third respondent on 04.07.2016 seeking compassionate appointment. The third respondent, in turn, made a recommendation to the first respondent and the first respondent, vide proceedings dated 28.11.2016 in Na.Ka.No.781/A1/2016, directed the third respondent to send necessary documents. After receipt of the documents, the first respondent rejected the petitioner's application vide order dated 22.03.2017, on the ground that the petitioner's father was eligible for compassionate appointment and he has not made application within a period of three years from the date of death of the petitioner's mother.

3. According to the petitioner, he gave a reply to the proceedings of the first respondent dated 22.03.2017. But the first respondent, without considering the same, has again rejected the petitioner's claim by order dated 08.05.2017 stating that the application was made beyond the period of three years, for which also, the petitioner has sent a reply to the first respondent and the same was also rejected vide order dated 17.07.2017. Challenging the same, the petitioner is before this Court.

4. According to the petitioner, his father was not fully eligible for appointment on compassionate ground and therefore, he made a request to the authorities to provide employment to the petitioner. But, without considering the aforesaid fact, the impugned orders have been passed by the first respondent and therefore, the same are liable to be quashed.

5. The learned Special Government Pleader appearing for the respondents submitted that the petitioner's father was eligible for compassionate appointment, but, because of his unwillingness, he has not been considered for appointment on compassionate ground. Thereafter, after attaining majority, the petitioner made an application for providing compassionate appointment beyond the period of three years and therefore, the first respondent has rightly rejected the petitioner's claim. Hence, the impugned orders of the first respondent do not warrant any interference of this Court.



6.The core issue involved in the present petition is as to whether the application seeking compassionate appointment has been submitted within a period of three years, as per G.O.Ms.No.202, Labour and Employment Department, dated 08.10.2007 or not?

7.According to the petitioner, his father made an application on behalf of the petitioner on 10.10.2013. At the time of making application, the petitioner was a minor, aged about 12 years and after attaining majority, immediately, the petitioner made an application to the respondents and the application submitted by the petitioner is within a period of three years. Therefore, the reason assigned by the first respondent in the impugned orders is unsustainable.

8.The other issue involved in the petition that the petitioner's father is eligible for compassionate appointment is concerned, the same has to be considered by the authorities, after providing an opportunity to the petitioner by placing all the relevant materials and ultimately, if it is found that the petitioner's father is eligible for employment, then, it is always open to the respondents to reject the application.

9.In such circumstances, the impugned orders of the first respondent are quashed and this writ petition is allowed and the matter is remitted to the first respondent to decide the application afresh, after affording an opportunity to the petitioner, by placing all the relevant materials and also to consider the eligibility of the petitioner's father and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Educational Officer,
District Educational Office,
Aranthangi,
Pudukottai District.

2.The District Elementary Educational Officer,
Pudukottai District,
Pudukottai.



3.The Assistant Elementary Educational Officer,
Aranthangi Union,
Pudukottai District,
Pudukottai.

WEB COPY

+1 CC to Mr.C.VAKEESWARAN, Advocate SR-78333.
+1 CC to SPL GP SR-78548.

W.P(MD)No.12134 of 2018
29.07.2019

CS(07.08.2019) 3P 6C