



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P(MD)No.23362 of 2016

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G.Arockiadass

.. Petitioner

Vs.

1.The Director,
Directorate of Technical Education,
Guindy,
Chennai - 600 028.

2.The Principal,
Thiyagarayar Engineering College,
Madurai-625 015.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to forward the petitioner's representation dated 08.10.2009 to the 1st respondent and to grant the compassionate appointment to the petitioner.

For Petitioner : Mr.P.Muthusamy

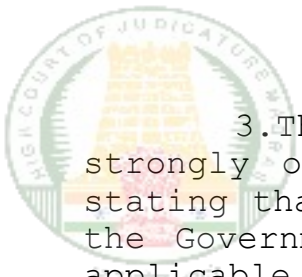
For R1 : Mr.Aayiram K.Selvakumar
Additional Government Pleader

For R2 : Mr.Mahaboob Athiff
for M/s.Ajmal Associates

ORDER

This writ petition has been filed seeking direction to the 2nd respondent to forward the petitioner's representation dated 08.10.2009 to the 1st respondent and to grant compassionate appointment to the petitioner.

2.According to the petitioner, his father viz., Gnanaprakasam was working as a Cleaner in the Electronical department in the second respondent college and he died on 06.08.1999 while in service. The petitioner, his mother, brother and two sisters are the legal heirs of the deceased father. The petitioner made an application to the second respondent on 08.10.2009 for providing employment on compassionate ground, but, till date, no order has been passed by the second respondent. Therefore, the petitioner is before this Court, seeking the aforesaid relief.



3. The learned counsel appearing for the second respondent strongly objected the aforesaid relief sought by the petitioner, stating that the second respondent college is a private college and the Government Order relates to compassionate appointment, is not applicable to the private colleges and therefore, the petitioner cannot compel the second respondent to forward the proposal to the first respondent for providing compassionate appointment. The learned counsel has also relied upon a decision of this Court in WP (MD)No.14193 of 2009 dated 27.10.2010, wherein, this Court, at paragraphs - 8 to 10, has held as follows:

"7. Though the petitioner contended that this is a scheme framed by the Government and the private colleges which are aided are bound by the same, this Court is not satisfied with the existence of binding same. In any event having regard to the stand taken by the respondents, this Court is not inclined to countenance the prayer made by the petitioner, especially, when the respondents 3 and 4 are private colleges. Even assuming that it is a Government recognised institution, it is necessary to take notice of the two decision of the Supreme Court which may have bearing on the present case.

8. In the decision reported in 1994(2)SCC 718 : 1994 - II - LLJ - 173 (Life Insurance Corporation of India V. Asha Ramacnadhra Ambedkar (Mrs.) and another), it was pointed out that the High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointment on compassionate grounds when the regulations framed in respect thereof do not cover and contemplates such appointment.

9. In Umesh Kumar Nagpal V. State of Haryana and others (1994 (4) SCC 138 : 1995 - I - LLJ 798), it was noted that as a rule in public service, appointment should be made strictly on the basis of open invitation of application and merit. The appointment on compassionate ground is not another source of recruitment but merely on exception to the aforesaid requirement taking into consideration the fact of the death of the employee while in service leaving his family without any means livelihood. If such cases the object is to enable the family to get over sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into account consideration the financial condition of the family of the deceased.

10. In the light of the same, the writ petition



is misconceived and accordingly, it stands dismissed."

4. Therefore, following the aforesaid decision of this Court, this Court is not inclined to grant any relief to the petitioner and there is no force in the contention made by the learned counsel for the petitioner. Consequently, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To
The Director,
Directorate of Technical Education,
Guindy, Chennai - 600 028.

+1 CC to M/s.SPL GP (SR-79978[F] dated 06/08/2019)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-80061[F] dated 06/08/2019)

+1 CC to M/s.P.MUTHUSAMY, Advocate (SR-80160[F] dated 07/08/2019)

W.P (MD) No.23362 of 2016

KK/SAR/19.08.2019/3P-5C/