

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.406 of 2020

S.Hariharan

Petitioner

vs.

1. The District Revenue Officer,
Audco City,
Cheyyar Circle,
Thiruvannamalai District.
2. The District Collector,
Cheyyar Circle,
Thiruvannamalai District.
3. The Secretary to Government,
Municipal Administration Water Supply Department,
Fort St. George,
Chennai - 600 009.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records and quash the impugned order Na.Ka.A3/57524/2019 dated 30.07.2019 and Na.Ka.A3/57524/2008 dated 31.10.2019 issued by the 2nd respondent and consequently direct the respondents to appoint the petitioner on compassionate ground basis.

For Petitioner : M/s.N.Beulah John Selvaraj
For Respondents: Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order passed by the 2nd respondent in his proceedings dated 31.10.2019, rejecting the request made by the petitioner for considering him for compassionate appointment.

2.The petitioner's father was working as a Revenue Inspector in the office of the District Collector, Thiruvannamalai. He died on 14.07.2008 while he was in service. At the time of his death, the petitioner was aged about 9 years. He died leaving

behind his wife and two children. The petitioner's mother applied for appointment on compassionate grounds on 31.07.2008. She also furnished the legal heirship certificate. This application was pending and in the year 2014, the mother of the petitioner made a representation to the 1st respondent to the effect that she is already aged about 52 years and she is not physically fit enough to take up any employment and therefore, she requested the respondents to consider granting compassionate appointment to the petitioner who is her son. When this representation was made, the petitioner was aged about 17 years.

3.The mother of the petitioner was called for an enquiry by the 2nd respondent through his letter dated 11.12.2017. The petitioner participated in the enquiry and she stated that she was aged about 56 years during the relevant point of time and she requested for granting the compassionate appointment to her son. The 2nd respondent by his proceedings dated 31.10.2019 has rejected the request made by the petitioner on the ground that only the mother had applied for compassionate appointment and she is not willing to take up the employment when she was called for enquiry. The impugned order further states that the employment cannot be considered for the other legal heir when it was applied only in the name of the mother. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The learned counsel for the petitioner submitted that the 2nd respondent ought to have satisfied himself with the pecuniary/financial situation faced by the family and should have considered providing for employment on compassionate grounds to the petitioner. The learned counsel further submitted that by the time the mother was called for enquiry, she was aged and she was facing physical ailments and therefore, she also requested that the petitioner can be considered for compassionate appointment. The learned counsel submitted that the 2nd respondent ought to have considered the request made by the petitioner and his mother in a proper perspective and the same should not have been rejected on technical grounds.

5.Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that in a case of this nature, the alternative application by another legal heir can be considered only where the original applicant had died after applying for compassionate appointment. In the absence of the same, one legal heir cannot be replaced by another legal heir and the same is not provided under the relevant Rules. The learned counsel submitted that respondent has strictly gone by the Rules governing compassionate appointment and there is no ground to interfere with the impugned order passed by the 2nd respondent.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.There is no doubt with regard to the fact that the father of the petitioner was working as a Revenue Inspector in the office of the District Collector, Thiruvannamalai and unfortunately died while he was in service in the year 2008. At that point of time, the petitioner was only aged about 9 years. Since, the family was left in lurch, the mother of the petitioner had made an application to the 2nd respondent seeking for compassionate appointment. This application was kept pending for a long time and by the time the mother of the petitioner was called an enquiry, she was more than 55 years and therefore, she stated to the 2nd respondent that she has become aged and she has physical ailments and therefore, her son can be considered for compassionate appointment. In fact she had written letter to the 2nd respondent on 25.09.2014 requesting for granting compassionate appointment to the son of the deceased employee. When this representation was made, the petitioner was aged about 17 years.

8.In a case of this nature, the concerned authorities must satisfy themselves that persons who are applying are the legal heirs of the deceased employee. It is also important to see if the family of the deceased is under financial distress. It is true that the mother of the petitioner had made the application for seeking compassionate appointment. If by the time she is called for an enquiry, she become aged (in the present 56 years) and she makes a request that her son can be considered for compassionate appointment, such contingency must be entertained. Ultimately, the compassionate appointment is going to be given to only one of the legal heir of the deceased employee and it is not as if more than one legal heir is considered for compassionate appointment. No useful purpose will be served by considering the request for compassionate appointment if the concerned candidate has reached the age of 56 years. It hardly matters whether the concerned candidate is given appointment or not, since the retirement age is 58 years. Under such circumstance, the authorities must be flexible enough to see if the son or daughter can be considered for compassionate appointment, if they are otherwise eligible.

9.In the considered view of this Court, the 2nd respondent ought to have taken into consideration the request made by the mother of the petitioner in the year 2014, that should have been taken as an application for petitioner to be considered for compassionate appointment more particularly when the original applicant namely the mother is giving up her claim seeking for compassionate appointment. If that had been taken into consideration, the application is on time and by the time it was

considered in the year 2018, the petitioner was also a major and the 2nd respondent could have seen if all the requirements were satisfied. The whole purpose of granting compassionate appointment is to ensure that the family of the deceased employee is saved from the financial distress and the family is provided with livelihood.

10. In view of the above discussion, this Court has no hesitation to interfere with the impugned order passed by the 2nd respondent dated 31.10.2019 and accordingly the same is quashed. The 2nd respondent is directed to consider the request made by the petitioner seeking for compassionate appointment independently in accordance with the G.O.Ms.No.18, dated 23.01.2020 and shall satisfy himself as to whether the petitioner is fulfilling the requirements in the Government Order and shall take an appropriate decision. The 2nd respondent is directed to pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order. The petitioner shall make a fresh representation to the 2nd respondent along with all the relevant documents and also a copy of this order.

11. This writ petition stands allowed with the above directions. No Costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

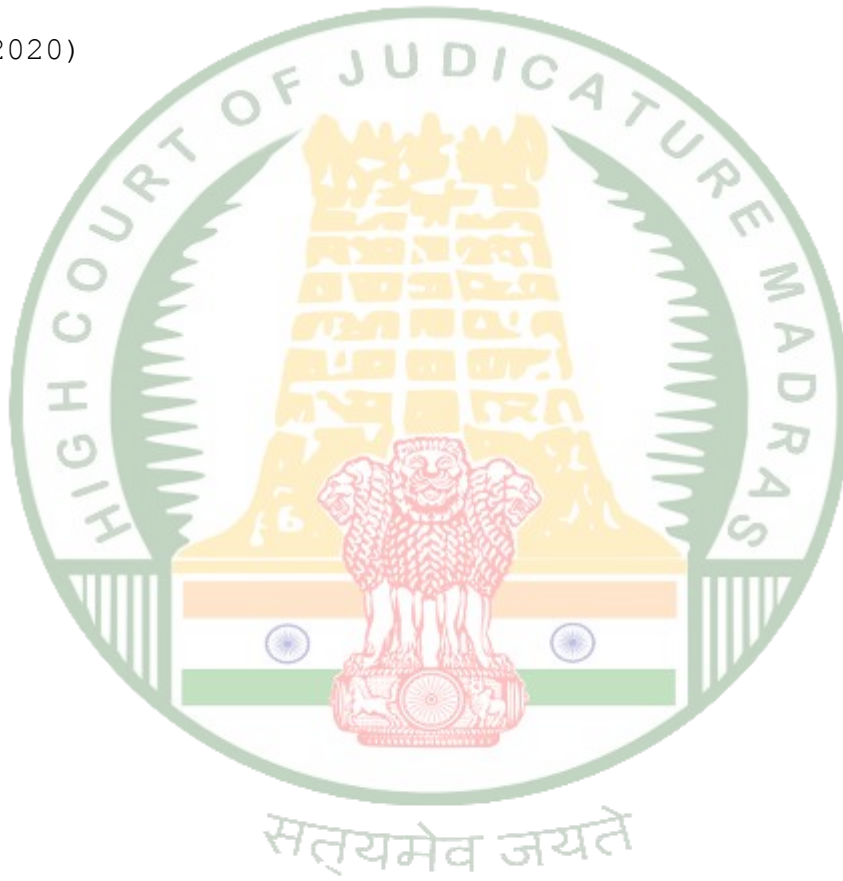
To

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+1 CC to M/s.N.Beulah John Selvaraj, Advocate sr 12329.
+1 CC to The Govt. Pleader sr 13087.

W.P No.406 of 2020

CP (CO)
SP (28/02/2020)



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