

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9654 of 2020

G.G.Sharma

...Petitioner

-vs-

1.The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.

2.The Chief Education Officer,
Salem District, Salem.

3.The District Education Officer,
Sankagiri, Salem District.

4.The Headmaster,
Government High School,
Kaveripuram Post,
Mettur Taluk,
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari and Mandamus, calling for the records relating to the order of rejection passed in Moo.Mu.No.78235/J/E4/2019 dated 26.05.2020 on the file of the 1st respondent, quash the same and direct the respondent to provide suitable employment to the petitioner on compassionate ground.

For Petitioner : Mr.V.Elangovan

For R1 & R2 : Mr.P.Raja

Govt. Advocate

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O R D E R

Petitioner has come up with this Writ Petition, seeking to quash the order of rejection passed by the 1st respondent in Moo.Mu.No.78235/J/E4/2019 dated 26.05.2020, by which the request of the petitioner to consider his for compassionate appointment on compassionate ground in lieu of his mother, was rejected. The petitioner also sought a direction to the respondents to provide suitable employment to the petitioner on compassionate ground.

2. Mr.P.Raja, learned Government Advocate takes notice for the respondents 1 & 2. By consent of both parties, this writ petition is disposed of at the admission stage itself.

3. According to the Petitioner, his father died on 18.07.2001, while in service, due to ill health and at the time of his father's death, he was aged 7 years. It is stated by the Petitioner that, though his mother made an application to the 4th respondent on 29.10.2001 for appointment on compassionate ground and the same was forwarded to the 3rd respondent through proper channel, no order was passed thereon. He further stated that, in the meanwhile, he has completed his BBA Degree Course and sought for public employment on compassionate ground and his application came to be rejected by the 1st respondent on 26.05.2020, aggrieved by which, he is before this Court.

4. Learned Government Advocate appearing for R1 and R2 has contended that there is every justification on the part of the 1st respondent in denying the compassionate appointment to the petitioner, as there is no provision to substitute the application, which was originally given by his mother 16 years ago and at this distant point of time, the petitioner's request for such appointment cannot be considered.

5. A perusal of the case reveals that the father of the petitioner died on 18.07.2001 and thereafter, mother of the petitioner made an application for compassionate appointment well within time on 29.10.2001. The petitioner's mother, after making the application, kept mum for several years without furnishing the details sought for by the respondents and all of a sudden, the petitioner woke up from slumber and sought for an appointment on compassionate ground, which cannot be accepted. Compassionate appointment cannot be demanded as a matter of right and only to safeguard the family, which is in distress on account of demise of the employee / earning member of the family and to come out from the indigenous circumstances, such appointments are widely made. I have also considered various judgments of the Apex Court and rendered a finding with regard to compassionate appointment in the case of S.Gowtham Balu The Managing Director, Tamil Nadu Electricity Generation and Distribution Corporation, 144, Anna Salai, Chennai - 600 002 and another [W.P.(MD)Nos.4129, 7045, 16624 and 20786 of 2014] decided on 24.09.2018.

6. The Apex Court in the case of Bhawani Prasad Sonkar vs. Union of India reported in 2011 (4) SCC 209, held as under:

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de~hors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the bread~winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee-s family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

7. In view of the foregoing discussions and following the judgments of the Apex Court as well as this Court, in the considered opinion of this Court, the claim of the petitioner, that too after a lapse of nearly 16 years, has no substance and the Writ Petition is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.

2. The Chief Education Officer,
Salem District, Salem.

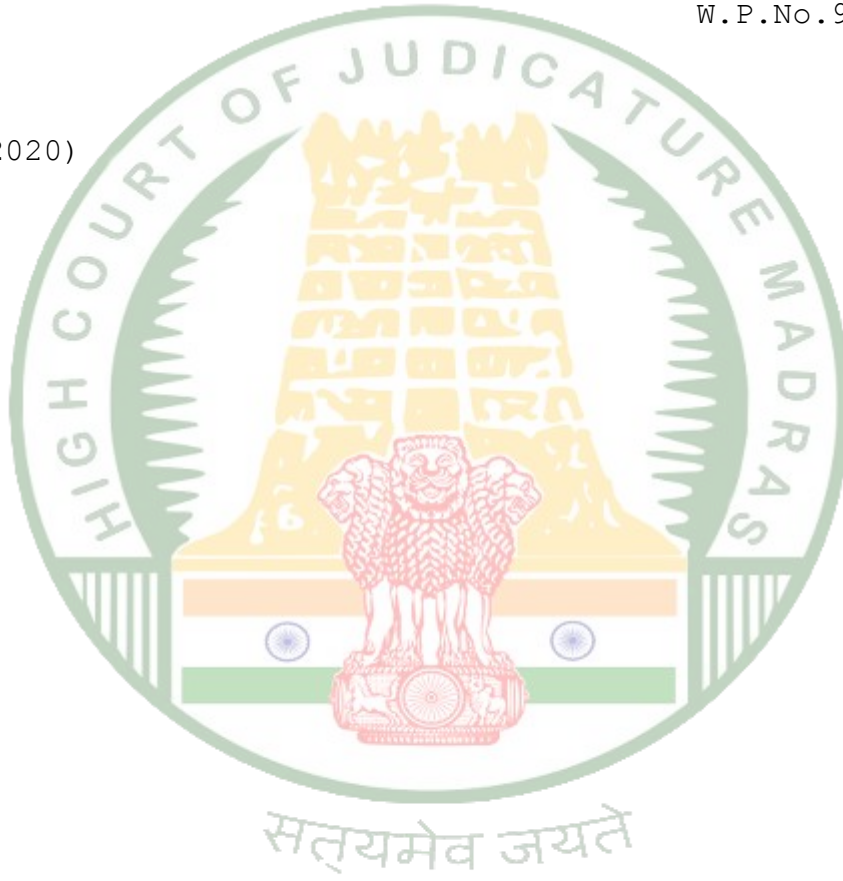
3. The District Education Officer,
Sankagiri, Salem District.

4.The Headmaster,
Government High School,
Kaveripuram Post,
Mettur Taluk,
Salem District.

+1cc to Mr.S.Doraisamy, Advocate in SR.NO..25323
+1cc to the Government Pleader in SR.NO..25420

W.P.No.9654 of 2020

GJ(CO)
RV(05/11/2020)



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