

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.10203 of 2020

WMP Nos.12400, 12401 & 12403 of 2020

1.Irosa

2.P.Prabhakaran

... Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. by Secretary to Government,
Revenue Department,
Secretariat,
Chennai-9

2.The Principal Secretary and Commissioner
of Revenue Administration,
Chepauk,
Chennai.

3.The District Collector,
Tiruchirapalli District,
Trichy.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the proceedings in Na.Ka.No.A4/56374/2008 dated 11.02.2020 issued by the third respondent and quash the same and to direct the respondents herein to provide appointment on compassionate grounds to the second petitioner herein within a limited time frame.

For Petitioner .. Mr.M.Ravi

For Respondent .. Mr.V.Kathirvel, Spl.GP for R1

Mr.S.Karthigai Balan, GA for RR2 to 4

ORDER

This matter is taken up through web hearing.

2. This writ petition has been filed seeking for issuance

of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the proceedings in Na.Ka.No.A4/56374/2008 dated 11.02.2020 issued by the third respondent, quash the same and to direct the respondents herein to provide appointment on compassionate grounds to the second petitioner herein within a limited time frame.

3. The case of the petitioners is that the first petitioner is the wife of the deceased employee and the second petitioner is his son. According to the petitioners, the deceased employee, who was working as the Village Administrative Officer, died while in service on 30.03.1988. According to them, within the time stipulated for application under Scheme for compassionate appointment, i.e. on 22.02.1990 the first petitioner made application, seeking for appointment on compassionate grounds. At that point of time, it appears that there was a counter claim by an another lady claiming as the wife of the deceased employee and therefore, the petitioners were directed to approach the competent civil Court to obtain Succession certificate in order to substantiate their claim as being the legal heirs of the deceased employee.

4. Civil suits were filed in O.S.No.173 of 1996 and 46 of 2009 in regard to compassionate appointment and declaration to declare that the first petitioner was the legally wedded wife and the second petitioner was his son. According to the decree passed in O.S.No.173 of 1996 dated 03.09.2009, the counter claimant was declared as not entitled to compassionate appointment. According to the petitioners, various representations have been submitted over the years, after the dispute was settled by the civil court between the petitioners and the rival claimants and there was a direction to consider the claim of the petitioners herein in 2017-2018. Ultimately, by the impugned order, the claim was rejected on the ground that the original claimant had crossed the age of superannuation and therefore, the second petitioner cannot be considered for compassionate appointment.

5. The learned counsel for the petitioners would submit that the reason cited in the rejection order is legally unacceptable for the reason that the Government issued G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 providing for compassionate appointment to alternate legal heirs in case of original claimant is not being alive. In the teeth of the said G.O., the rejection of the petitioners' request on 11.02.2020, is unsustainable in law.

6.As regards the delay in seeking compassionate appointment in the face of the fact that the second petitioner's father died as early as on 1988, the learned counsel submitted that in view of the dispute in the family for which, the petitioner had to resort to civil proceedings to settle the issue of legal heirship of the deceased employee and due to which, considerable time had elapsed. Thereafter, on conclusion of the civil proceedings in their favour, when the application was submitted, it was directed to be considered and a rejection order was passed only recently on 11.02.2020. Therefore, the delay as such need not be held against the petitioners' claim.

7.This Court is unable to appreciate the submissions made on behalf of the petitioners for the simple reason that the death of the employee was in the year 1988 and more than 32 years had elapsed and the age of the second petitioner as indicated in the affidavit is 36 years. The very fact that the second petitioner along with his mother, survived for 32 years would dis-entitle them from claiming any compassionate appointment after the delay of three decades. The reasons for the delay attributed towards pendency of civil disputes between the petitioners and the rival claimants are unacceptable since according to the petitioners themselves, that the civil proceedings had come to an end in 2009-2013 itself. Merely because some civil proceedings were pending for some time, the appointment on compassionate grounds cannot be sought after a lapse of more than three decades. Needless to mention that time and again, this Court has held that the Scheme for compassionate appointment is meant to render immediate employment assistance to the family member of the deceased employee and such employment cannot be kept pending for more than three decades. The very Scheme of the appointment on compassionate grounds would be defeated if the request of the petitioners for compassionate appointment is entertained after enormous delay of 32 years. The Government job cannot be the subject matter of inheritance and cannot be claimed as the matter of right and it can only be claimed as the matter of grace as the appointment itself is qualified as compassionate appointment.

8. In the above said circumstances, this Court is unable to appreciate the claim of the petitioners. Therefore, the Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

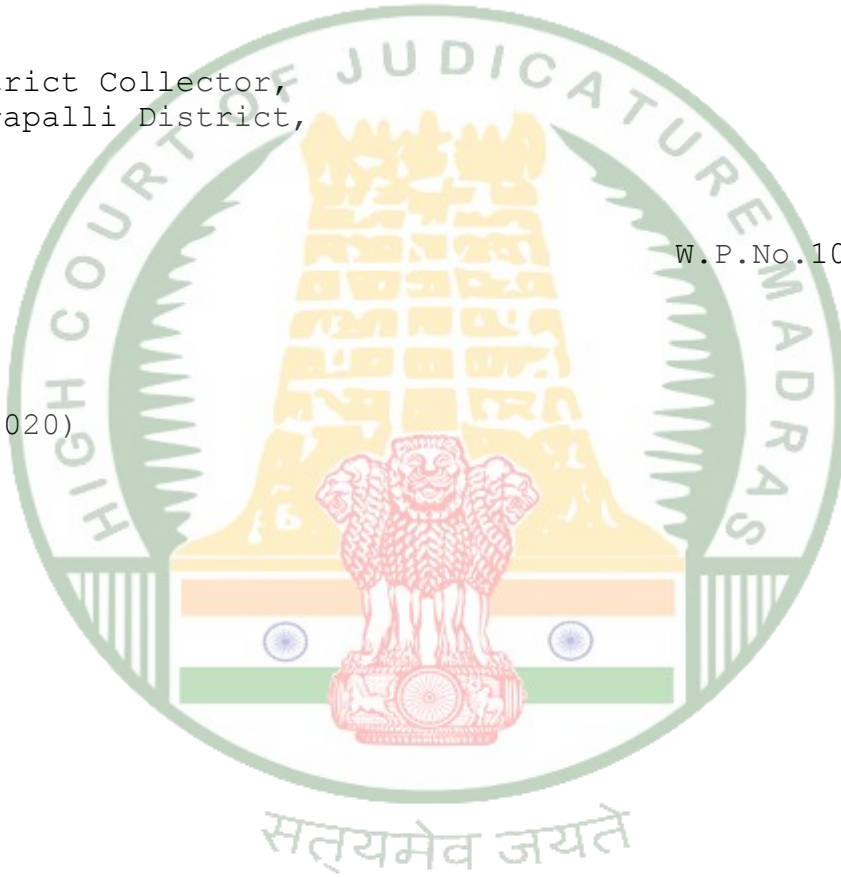
Dn/suk

To

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VSNII (CO)
GS (22/10/2020)



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