



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.11816 of 2020

WEB COPY

V.Balamurugan

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Block Development Officer (Village Panchayat),
Block Development Office,
Aathoor @ Sempatti,
Sempatti Post,
Dindigul District.

3.The President,
Village Panchayat,
Bodikkamanvadi
Aathoor Taluk,
Dindigul District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 3 to consider the representations of the petitioner dated 06.06.2019, 23.03.2020 and 03.08.2020 for appointment on compassionate ground to any post including the entry level post, within the period that may be stipulated by this Court.

For Petitioner : Mr.K.Ponnaiah
for M/s.Ajmal Associates

For Respondents : Mr.A.Thiyagarajan
Government Advocate

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.This Writ Petition has been filed to direct the respondents 1 to 3 to consider the representations of the petitioner dated 06.06.2019, 23.03.2020 and 03.08.2020, seeking for appointment on compassionate ground to any post including the entry level post, within the period that may be stipulated by this Court.



3.The learned counsel appearing for the petitioner would submit that the petitioner's father Thiru P.Veeraiyan was appointed as Sweeper in the third respondent Office on 01.11.1993 and he was paid salary in time scale of pay. Subsequently, the petitioner's father died on 25.04.2019 while in service leaving behind the petitioner, his mother and his two elder sisters. The petitioner is educated and a graduate in B.A. (Rural Reconstruction). The petitioner registered his name in the Employment Exchange. After the death of his father, he approached in person to the second respondent and made a representation dated 06.06.2019, enclosing the mandatory certificates seeking for appointment on compassionate ground. However, the petitioner has not received any response from the second respondent. Hence, the petitioner once again sent a representation dated 23.03.20250 to the respondents 1 to 3 and to the Panchayat Union Commissioner, Aathoor Panchayat Union. Since no action was taken by the respondents, the petitioner sent another representation to the third respondent on 03.08.2020, by Registered post. But there is no response from the third respondent.

4.The learned counsel appearing for the petitioner would further submit the as per G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the petitioner is entitled to get compassionate appointment. Though the petitioner made several representations, the respondents have not taken any steps to dispose of the same and provide appointment under the compassionate ground. Hence, without any other options, the petitioner filed this writ petition for appropriate direction to consider his representations and to issue appointment on compassionate ground.

5.The learned Government Advocate appearing for the respondents would submit that the third respondent has filed a counter, wherein paragraph No.5 held as follows:-

5.I submit that originally, the petitioner's father was appointed as Sweeper in the third respondent village panchayat only via the resolution passed by the village panchayat. Originally, the petitioner's father's appointment was not a regular appointment and his appointment was never regularized by the authorities and he was treated as part time service. When the petitioner's father was not a regular, full time employee of the third respondent village panchayat, the petitioner cannot be considered for appointment under the compassionate grounds. Further, there is no G.O. or any rule which provides compassionate appointment for the legal heirs of the deceased employees who worked in the post of Sweeper and Over Head Tank Operator. Hence, the petitioner filed the present writ petition with devoid of merits and the same deserves to be dismissed.



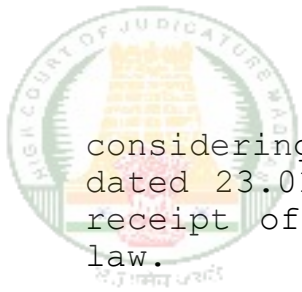
6.By referring the above, the learned Government Advocate appearing for the respondents would submit that the petitioner's father service was not regularised and he was appointed only in a time scale of pay. Therefore, the petitioner is not entitled to get the benefits available in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020.

7.In reply, the learned counsel appearing for the petitioner would submit that the Government issued G.O.Ms.No.39, Rural Development and Panchayat (E5) Department, dated 07.05.2013, regularizing the service of the Sweeper working in Village Panchayat under the State of Tamil Nadu w.e.f 15.09.2010 on fulfilling the three years of service either as daily wager or on consolidated pay. In terms of the said G.O., the first respondent issued proceedings dated 14.08.2013, by fixing the time scale of pay for the sweeper who are working under the Village Panchayat, which includes the father of the petitioner. Subsequently, an endorsement was also made by the second respondent in service register of the petitioner's father dated 22.08.2013. In this regard, the petitioner also applied for information under the Right Information Act on 16.09.2020 and he received the reply dated 20.10.2020. On perusal of the said information, it appears that the petitioner's father time scale of pay was fixed with effect from 07.05.2013. Therefore, he submitted that the petitioner is eligible for compassionate appointment.

8.The learned Government Advocate appearing for the respondents would submit that though the service of the petitioner's father was regularized as per G.O.Ms.No.39, Rural Development and Panchayat (E5) Department, dated 07.06.2013, the petitioner is not eligible for compassionate appointment.

9.However, the learned counsel appearing for the petitioner would submit that the comprehensive Government order was issued in G.O.Ms.No.18 dated 23.01.2020, wherein it has been stated that only the persons whose legal heirs are not eligible for consideration under the compassionate ground appointment was that the person who do not come under the regular time scale of pay. In the present case, the petitioner's father was appointed and paid salary under the regular time scale of pay. Hence, the petitioner is entitled to get compassionate appointment. Therefore, based on the petitioner's representations, the respondents may be directed to provide compassionate appointment to the petitioner.

10.In view of the above submissions, this Court is of the view that only the persons do not come under the regular time scale, only those legal heirs are not considered for compassionate appointment in terms of G.O.Ms.No.18 dated 23.01.2020. Therefore, this Court directs the respondents to dispose of the petitioner's representations dated 06.06.2019, 23.03.2020 and 03.08.2020, by



considering G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, within a period of twelve weeks from the date of receipt of a copy of this order on merits and in accordance with law.

11. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1.The District Collector,
Dindigul District,
Dindigul.

2.The Block Development Officer (Village Panchayat),
Block Development Office,
Aathoor @ Sempatti,
Sempatti Post,
Dindigul District.

3.The President,
Village Panchayat,
Bodikkamanvadi
Aathoor Taluk,
Dindigul District.

+1 CC to M/s.Ajmal Associates,in SR.No.24057 of 2020.

W.P.[MD]No.11816 of 2020
02.12.2020

(SVN) CO
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