



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.12868 of 2020

A.Saravanan

...Petitioner

-Vs-

1.The Additional Chief Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009.

2.The Principal Secretary and Commissioner of Revenue
Administration,
Ezhilagam, Chepauk, Chennai 600 005.

3.The District Collector,
Madurai District, Madurai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the first respondent ie., the Additional Chief Secretary to Government, Revenue Department, Chennai to pass appropriate orders on the petitioner's representation dated 11.07.2020 within a specified time frame, that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.G.Arjunan
Government Advocate

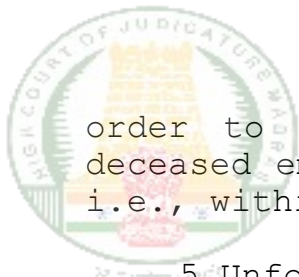
ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the first respondent ie., the Additional Chief Secretary to Government, Revenue Department, Chennai to pass appropriate orders on the petitioner's representation, dated 11.07.2020 within a specified time frame, that may be fixed by this Court.

2.Heard Mr.S.Visvalingam learned counsel appearing for the petitioner and Mr.G.Arjunan, learned Government Advocate appearing for the respondents.

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

4.The petitioner's father one R.Arumugam, who was serving as Village Assistant at Manickampatti Village, Vadipatti Taluk, Madurai District, expired suddenly on 26.06.2007, while he was in service. The legal heirs of the deceased employee are two sons and four daughters. One of the daughter expired on 23.12.2009. All other daughters got married and are living separately. Therefore, in



order to get compassionate appointment to the first son of the deceased employee one A.Moorthi, application was made on 16.06.2010 i.e., within three years period.

5.Unfortunately, subsequent to the said application, the said Moorthi due to medical condition become unfit to be considered as he become medically unfit and certificate to that effect was issued. Therefore, the petitioner's mother i.e., the widow of the deceased employee had requested along with the petitioner to give the compassionate appointment to the petitioner, who is the second son of the deceased employee.

6.When such an application was pending, it seems that some instructions had been given by the Commissioner of Revenue Administration, Chennai i.e., the second respondent on 02.03.2019, pursuant to the said instructions given by the second respondent, the third respondent vide his order, dated 17.03.2020 has rejected the said application made by the petitioner's mother on behalf of the petitioner for giving compassionate appointment to the petitioner being the second son and the only legal heir available or entitle to get the compassionate appointment of the deceased employee. As against the said order of rejection passed by the third respondent, dated 17.03.2020, the petitioner preferred an appeal to the first respondent i.e., Additional Chief Secretary to Government, Revenue Department, on 11.07.2020 and therefore, all that the learned counsel appearing for the petitioner request is, that the said appeal filed by the petitioner, dated 11.07.2020 before the first respondent against the third respondent's, order, can be directed to be disposed on merits and in accordance with law within a time frame that may be stipulated by this Court.

7.The learned Government Advocate appearing for the respondents would submit that, only pursuant to the clear instructions or direction given by the second respondent, dated 02.03.2019, the third respondent passed order already rejecting the application for seeking compassionate appointment to the petitioner on 17.03.2020 and the said order has not been challenged before this Court and thereafter only now the petitioner has given a representation by way of appeal to the first respondent on 11.07.2020. Therefore, the reason adduced either in the instructions of the second respondent, dated 02.03.2019 or the order passed by the third respondent, dated 17.03.2020 are still hold good. Therefore, the present appeal though liable to be disposed of on merits, the petitioner may not succeed in his appeal. Therefore, the said vain attempt can be discouraged and accordingly, this writ petition may be dismissed.

8.I have considered the said rival submissions made on both sides and have perused the materials placed before this Court.

9.No doubt, the request of the petitioner's mother to seek



compassionate appointment for the petitioner has been turned down by the orders of the third respondent/District Collector, dated 17.03.2020. Ofcourse, the said order was passed by the third respondent, pursuant to the instructions given by the second respondent, dated 02.03.2019.

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10.The sum and subsistence of the said order is that, once compassionate appointment was sought for a particular legal heir of the deceased Government employee, thereafter, no change can be permitted seeking for compassionate appointment to another legal heir of the deceased employee, as there has been no provision available in the extant Government Order, which are in vogue in this regard. Though the said reason have not been questioned before this Court as the petitioner has not chosen to challenge the order of the District Collector third respondent, dated 17.03.2020, however, he has chosen to file an appeal before the first respondent on 11.07.2020, where he has challenged the reason cited in the order of the third respondent, dated 17.03.2020. Therefore, it is for the first respondent to decide whether the petitioner has got any sustainable ground to allow their appeal and if so, the appeal can be allowed otherwise it can be rejected, anyhow, to take a decision on the appeal of the petitioner, the issue has to be decided based on the available Government Order in this regard and accordingly, the appeal of the petitioner shall be decided and disposed ofcourse on merits and in accordance with law within a time frame.

11.In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

'that the first respondent is hereby directed to consider the appeal filed by the petitioner, dated 11.07.2020 as against the order of rejection of compassionate appointment of the third respondent, dated 17.03.2020 and decide the said appeal on merits and in accordance with law and necessary final order shall be passed by the first respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order.'

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

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



W.P.(MD)No.12868 of 2020

1.The Additional Chief Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009.

2.The Principal Secretary and Commissioner of Revenue
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Ezhilagam, Chepauk, Chennai 600 005.

3.The District Collector,
Madurai District, Madurai.

+1CC to.M/s.SPL GP,SR.No.18343,dated 29/09/2020

W.P. (MD) No.12868 of 2020
28.09.2020

SS (CO)
KB(11.01.2021) 4P 5C