

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on	28.02.2020
Pronounced on	29.06.2020

WEB COPY

CORAM:**THE HONOURABLE MR. JUSTICE M.S.RAMESH****W.P. (MD) No.1593 of 2016**

E.Thirumalairajan

... Petitioner

Vs.

1.The Director,
Directorate of School Education, Chennai - 6.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Head Master,
Sethulakshmibai (SLB) Government
Higher Secondary School,
Nagercoil, Kanyakumari District.

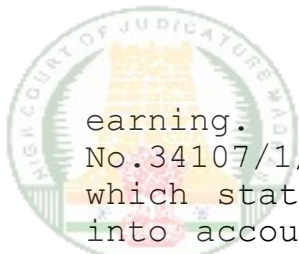
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent's proceedings in Moo.Mu.No.7551/A1/2013 dated 30.10.2015 and to quash the same as illegal and consequently, to direct the respondents to give appointment to the petitioner on compassionate ground to any suitable post according to his qualification within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.J.Senthil Kumaraiah
For Respondents : Mr.M.Karuppsamy
Government Advocate

O R D E R

While the petitioner's mother was working as a Sanitary worker in the third respondent's School, she died in harness, on 09.12.2000. The petitioner's request for compassionate appointment came to be rejected on 30.10.2015 by the second respondent herein on the ground that as per the Government Order in G.O.Ms.No.998, Labour and Employment Department, dated 02.05.1981, compassionate appointment cannot be granted when one of the family member is



earning. Likewise, the reliance was placed on Government Letter No.34107/1/1977-1/Labour and Employment Department dated 04.05.1978, which states that number of members of the family should be taken into account while granting compassionate appointment. By placing reliance on these two proceedings, the second respondent herein, had stated that the petitioner is not obliged to maintain any of his family members and since there is no other unmarried or student among the legal heirs, the request cannot be granted. The rejection order is put under challenge in the present Writ Petition.

2. Heard Mr.J.Senthil Kumaraiah, learned counsel for the petitioner and Mr.M.Karuppsamy, learned Government Advocate appearing on behalf of the respondents.

3. The reliance placed on the Government Order and Government Letter in the impugned order, seems to be misconceived. Pursuant to these Government Order/Letter, the Government in G.O.Ms.No.120 Labour and Employment Department, dated 20.06.1995 and in subsequent clarification letters, clarified that the legal heir of the deceased employee would be entitled to seek for compassionate appointment when the application is made within three years from the date of death of the employee. While that being so, when the subsequent Government Orders entitled the claimant to make an application for compassionate appointment, the respondent is not justified in relying upon old Government Orders and Government Letters and ignoring the subsequent Government Order.

4. In the instant case, the petitioner's father died on 09.12.2000 and the petitioner was a major at that point of time, he has made an application on 18.01.2002 within 3 years from the date of death of the employee. While that being so, his claim requires due consideration and there is absolutely no justification on the part of the respondents to reject the petitioner's request. Consequently the petitioner would be entitled for an appointment to the suitable post on compassionate ground.

5. It would be pertinent to point out herein that in all cases where claim is made for compassionate appointment, the concerned authorities are required to act efficaciously and speedily, since the very purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread-earner in the family and that there should not be any delay in such appointments. This proposition was held by the Hon'ble Apex Court in the case of **Sushma Gosain vs. Union of India** reported in **1989 (4) SCC 468** had held as follows:

'It must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to



redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.'

6. The same ratio was reiterated by the Hon'ble Apex Court in the case of **Canara Bank vs. M.Mahesh Kumar** reported in **2015 (7) SCC 412**.

7. In the light of the above observations, the impugned order passed by the second respondent dated 30.10.2015 is set aside. Consequently, there shall be a direction to the concerned respondent to issue an appointment order to the petitioner herein, on compassionate grounds, to such post that may be proportionate to the petitioner's qualification. The concerned respondent shall ensure that the appointment order is issued atleast within a period of eight weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Director,
Directorate of School Education, Chennai - 6.
- 2.The District Educational Officer,
Nagercoil, Kanyakumari District.
- 3.The Head Master,
Sethulakshmibai (SLB) Government
Higher Secondary School,
Nagercoil, Kanyakumari District.

Order made in
W.P. (MD) No.1593 of 2016
29.06.2020

sm/DP

SDS (17.07.2020) 3P-4C