

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

Reserved on	28.02.2020
Pronounced on	29.06.2020

CORAM:**THE HONOURABLE MR. JUSTICE M.S.RAMESH****W.P.(MD) No.6299 of 2016 and****W.M.P.(MD) No.5524 & 5525 of 2016**

M.Mahalinga Moorthy

...Petitioner

Vs.

- 1.The District Collector,
Collectorate,Ramanathapuram Dt-623 525
- 2.The R.S.Mangalam Panchayat Union Rep.,
by the Commissioner,
R.S.Mangalam,Thiruvadanai Taluk,
Ramanathapuram Dt-623 525.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the order passed by him in his Na.Ka..W1/79462/2015, dated 03.03.2016 and to quash the same and direct the respondent to give compassionate appointment to the petitioner to the post of Office Assistant or Junior Assistant.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.M.Jeyakumar, GA

O R D E R

The petitioner's father, Late Muthuvairu, while serving as a Noon Meal Organizer in a Panchayat Union Elementary School under the second respondent herein, died in harness, on 23.10.2010. The petitioner's claim for compassionate appointment came to be rejected through the impugned order dated 03.03.2016 by the first respondent on the ground that the deceased employee was survived by his wife, two daughters and one son and since G.O.Ms.163, Social Welfare and Nutritious Meal Programme Department dated 18.08.2010 stipulates that when the daughters of the deceased employee were available, the son cannot be given compassionate appointment. The said rejection order is under challenge in the present Writ Petition.

2. Heard Mr.D.Selvanayagam, learned counsel for the petitioner and Mr. M.Jeyakumar, learned Government Advocate appearing on behalf of the respondents.

3. The only ground on which the first respondent had rejected the petitioner's request is that since his father had two daughters, the petitioner being a son cannot seek for compassionate appointment in preference to the daughters.

4. I am not in agreement with such a reasoning given in the impugned order.

<https://hcservices.courts.gov.in/hcservices/> As a matter of fact, the impugned order itself states that



when the petitioner had sought for compassionate appointment, his two sisters namely, Parameswari and Muthukumari had given their no objection for granting compassionate appointment in favour of the petitioner. When both the daughters of the deceased employee had expressed their willingness to have appointment granted in favour of the petitioner, for which they had given no objection, I do not find any impediment for the respondents to consider the case of the petitioner for such appointment. As a matter of fact, the Government Order in G.O.Ms.No.198, Social Welfare and Nutritious Meal Programme Department dated 25.10.2003, will not stand in the way, when the girl children of the deceased employee have given their no objection. In view of the same, the only reasoning for which the petitioner's request for compassionate appointment cannot be sustained. Consequently, the petitioner would be entitled for compassionate appointment.

6. It is needless to point out that the scheme for compassionate appointment is a social welfare scheme with an object to provide financial assistance to the bereaved family over the death of a sole breadwinner of the Government employee. It is needless to point out that, in order to accommodate one of the legal heirs through compassionate appointment, the same post which the deceased employee was holding, need not be offered to the claimant and that the respondents are at liberty to consider any suitable post to the petitioner.

7. In the light of the above observations, the impugned order passed by the first respondent dated 03.03.2016 is set aside. Consequently, there shall be a direction to the first 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. Connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sm/DP

To

1.The District Collector,Collectorate,Ramanathapuram Dt-623 525

2.The Commissioner,R.S.Mangalam,Thiruvadanai Taluk,

Ramanathapuram Dt-623 525.

**order in W.P. (MD) No.6299 of
2016 and W.M.P. (MD) No.5524 & 5525 of 2016**

29.06.2020

SMA/16/07/2020/2P/3C

<https://hcservices.ecourts.gov.in/hcservices/>