

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.2909 OF 2021

K.Manikandan

... Petitioner

Vs

The District Collector,
The District Collectrate Office,
Thiruvarur & District.

... Respondent

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the respondent passed in Na.Ka.No.15653/2014/A3, dated 20.02.2019 and quash the same and direct the respondent to issue the order of any post on compassionate grounds as per the petitioner's representation, dated 17.11.2014.

For Petitioner : Mr.M.Thamizhavel

For respondent : Mr.R.A.S.Senthilvel,
Additional Government Pleader

O R D E R

This writ petition has been filed, to quash the impugned order made in Na.Ka.No.15653/2014/A3, dated 20.02.2019 passed by the respondent and for a consequential direction to the respondent to appoint the petitioner in any of the post on compassionate grounds by considering the representation of the petitioner, dated 17.11.2014.

2. The brief facts of the case are that the petitioner, who is the son of the deceased, who died while in service as a Village Assistant at Agara Thirumalam Village, Nannilam Taluk, Thiruvarur District on 17.09.2001, is claiming employment on compassionate ground. It is stated that though the mother of the petitioner has made earlier representation on 04.09.2002, requesting to give her employment according to her educational qualification, the respondent has not given any proper reply.

Thereafter, the petitioner made a representation on 17.11.2014, seeking compassionate appointment to him after completion of 18 years of age. But, the respondent passed the impugned order in Na.Ka.N.15653/2014/A3, dated 20.02.2019, rejecting the claim of the petitioner on the ground that there is no rule to give post to next legal heir since the representation of the mother has already been rejected by the respondent.

3. The learned counsel appearing for the respondent would submit that the Tahsildar of Nannilam by his letter dated 09.07.2007, clearly states that there is no proof with regard to the claim of compassionate appointment alleged to have been applied by the mother of the petitioner within three years from the date of demise of the deceased employee. Even assuming that she has applied for compassionate appointment, there is no vacancy according to her educational qualification, since she has completed Class 3 as per her School records. He would further submit that in so far as the claim of the petitioner is concerned, the petitioner is aged about 8 years at the demise of his father and there is no recruitment in the year 2001 - 2006. Even in 2006, the petitioner could not have made an application, since he has not attained majority.

4. Admittedly, the son of the petitioner had not even completed 8 years of age at the time of demise of his father. Hence, after attaining majority, the petitioner has made a representation dated 17.11.2014 for compassionate appointment. But the respondent could not accept the claim of the petitioner on the ground that there is no rule to give post to next legal heir since the representation of the mother has already been rejected. Aggrieved over the same, the petitioner has preferred this writ petition.

5. No doubt true, the mother and son could not have applied for a job under Compassionate ground within three years from the date of demise of the employee. Even though the financial circumstances of the individual need to be considered, there is no rule for appointment of minor. This Court and the Madurai Bench of this Court have held various decisions with regard to the grant of compassionate appointment to the legal heirs of the deceased employee.

6. As held by the Hon'ble Supreme Court in the case of Bhawani Prasad Sonkar Vs Union of India & Ors reported in (2011) 4 SCC 209, the purpose of compassionate appointment is to meet the sudden crisis and there is no need to keep a post vacant to claim after 18 years. Therefore, it is clear that the request for appointment on compassionate ground for the child in the womb, by seeking reservation of one post till the child's majority cannot be entertained. I also made a decision in

W.P.MD.No.4129 of 2014 dated 24.09.2018 that the Compassionate appointment is not a matter of right of a person.

7. In the light of the observations made there in, the petitioner will not be entitled to any relief. The writ petition is dismissed accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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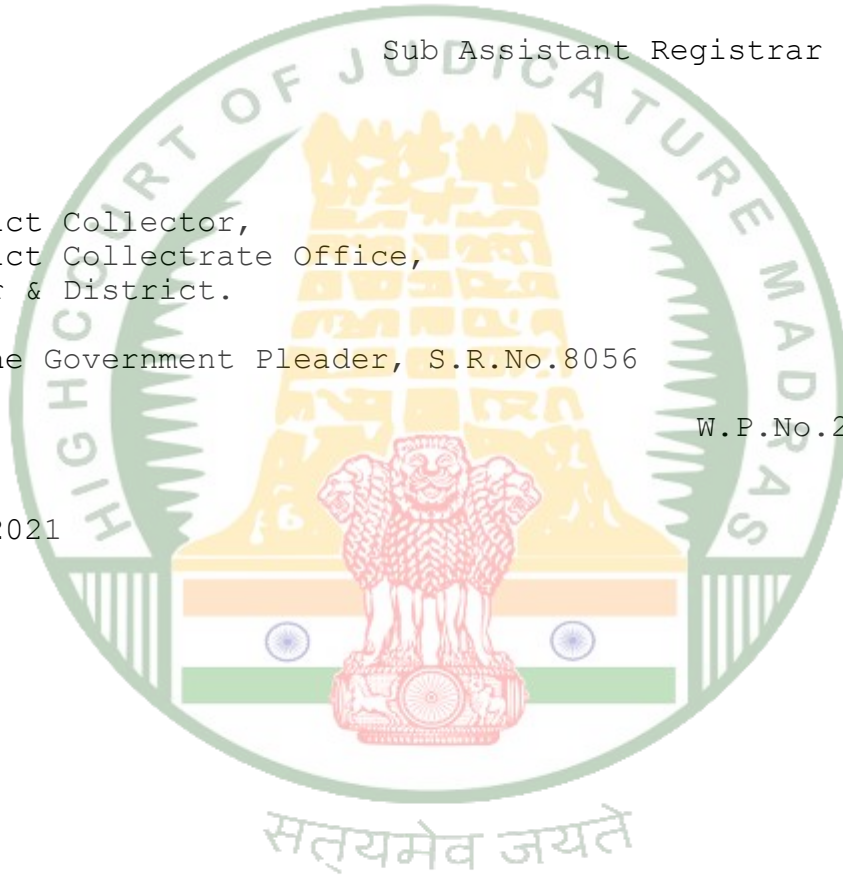
To:

The District Collector,
The District Collectrate Office,
Thiruvarur & District.

+1cc to the Government Pleader, S.R.No.8056

W.P.No.2909 of 2021

BP(CO)
CS/29/03/2021



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