



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2021

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.25276 of 2011

&

M.P.No.2 of 2011

Lakshmikanth Kalathi

.. Petitioner

vs.

1. The Commissioner of Transport,
Ezhilagam
Chepauk,
Chennai-600 005.
2. The Joint Commissioner of Transport,
Ezhilagam,
Chepauk,
Chennai-600 005.
3. The State of Tamilnadu,
By its Secretary,
Department of Transport,
Fort St. George,
Chennai-600 009.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd Respondent in proceedings in N.Dis.No.37237/T1/2011 dated 09.06.2011 and quash the same and direct the respondents to appoint the Petitioner in the post of MV Inspector Gr.II in the Regional Transport Office of the Transport Department with continuity of service.

For Petitioner : M/s.V.Vasudevan and Priya

For Respondents : Mr.C.Harsha Raj (counsel for State)

O R D E R

The Petitioner challenges an order dated 09.06.2011 whereby his request to be appointed as Motor Vehicle Inspector Grade II in the RTO Office at K.K.Nagar, Chennai or at any other appropriate place was rejected by the Respondents.



2. The Petitioner's father, who had been working as a Superintendent in the RTO Office, Anna Nagar died in harness on 20.10.2005. After his death, the petitioner applied for appointment under the compassionate appointment quota. Pursuant to such application, the petitioner was appointed by appointment order dated 29.01.2008 in the post of Junior Assistant. On the basis that the petitioner possessed requisite qualifications for appointment as Motor Vehicle Inspector Grade II as also on the basis that other similarly situated persons had been appointed as Motor Vehicle Inspector Grade II, the petitioner submitted a representation dated 04.06.2011 to consider his appointment as Motor Vehicle Inspector Grade II. The said representation was rejected by the impugned order and this resulted in the filing of the writ petition.

3. Learned counsel for the petitioner relied heavily that G.O.Ms.No.16 Personnel & Administrative Reforms Department dated 05.01.1987 so as to contend that the post of Motor Vehicle Inspector Grade II is a Group C post. On such basis, he contended that the rejection of the petitioner's representation on the basis that compassionate appointment can be offered only in Group C and D posts whereas the post of Motor Vehicle Inspector Grade II is a Group B post is erroneous. He also pointed that a person called Muthu was appointed as Motor Vehicle Inspector Grade II under the compassionate quota and that another person called Babu was also appointed under the compassionate quota as Motor Vehicle Inspector Grade II. Accordingly, he contended that the impugned order is liable to be quashed.

4. On the contrary, Mr.Harsha Raj, learned counsel for the State submitted that these posts are classified into Groups A,B,C and D depending on the scale of pay: all posts in respect of which the minimum scale of pay is Rs.5500 and above are classified as Group B posts. As regards the post of Motor Vehicle Grade II Inspector, he points out that the scale of pay is Rs.5500-175-9000. Consequently, the said post is a Group B and not a Group C post. He also relies upon a Government Order issued on 12.03.2007. The said G.O.(Ms) No.42 dated 12.03.2007 in relevant part, as under:

"4.Appointment on compassionate grounds are made in 'C'and 'D' Groups only. Neither the qualification of the applicant nor the post held by the deceased employee is relevant. Appointment to the posts in 'B' Group cannot be made as laid down by the Supreme Court. The appointing authority shall, however, consider if the dependent of the deceased employee wishes to accept employment in 'C' Group and if otherwise eligible. Pending applications seeking compassionate appointments under "'B' Group be disposed of accordingly."



5. With regard to the appointment of Mr.A.Muthu, he points out that such appointment was made prior to the issuance of the aforesaid G.O.Ms.No.42 dated 12.03.2007. He also pointed out that the petitioner was appointed as Junior Assistant by appointment order dated 29.01.2008 and that he duly accepted such appointment without demur at the relevant point of time.

6. Upon considering the rival submissions, the main question that arises for consideration is whether the petitioner was entitled to be appointed as a Motor Vehicle Inspector Grade II under the compassionate quota. The settled legal position is that compassionate appointment is not a regular method of appointment but something extended, as an exception, to the legal heirs of a deceased employee in order to enable them to tide over the financial crisis occasioned by the demise of an employee in Government service. Accordingly, such appointment should be made strictly in accordance with the scheme for such appointment as prevalent at the relevant time.

7. In the case on hand, learned counsel for the State has drawn my attention to G.O.Ms.42, dated 12.03.2007, which states categorically that appointment on compassionate ground can be made only in Group C and D posts. The State has also pointed out that posts are classified as Groups A,B,C and D depending on the scale of pay. The scale of pay of the post of Motor Vehicle Inspector Group II has been clearly indicated as Rs.5500-175-9000. Consequently, the contention of the State that the post of the Motor Vehicle Inspector Group II is a Group B and not Group C post is liable to be accepted. Although learned counsel for the petitioner relies upon G.O.Ms.No.16 dated 05.01.1987, the said Government Order has been superseded by subsequent Government Orders such as G.O.Ms.No.42 dated 12.03.2007 which are to the contrary.

8. In addition, the petitioner was appointed on 29.01.2008 and accepted such appointment to the post of Junior Assistant without demur at the time of appointment. Indeed, the first representation raising a grievance with regard to his post was made only on 04.06.2011, which is more than three years after his appointment.

9. For all these reasons, the petitioner has failed to make out a case to interfere with the impugned order. Consequently, W.P.No.25276 of 2011, is dismissed without any order as to costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



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To

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Chepauk,
Chennai-600 005.
2. The Joint Commissioner of Transport,
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Chepauk,
Chennai-600 005.
3. The State of Tamilnadu,
By its Secretary,
Department of Transport,
Fort St. George,
Chennai-600 009.

+1CC to Mr Vasudevan, Advocate SR No. 36445

+1CC to Government Pleader, Advocate SR No.36958

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&

M.P.No.2 of 2011

RSV (CO)

B.VC (16.08.2021)