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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.40169 OF 2015

K.Byravan

...Petitioner

Vs.

1. The District Collector
Vellore.

2. The Tahsildar
Tirupattur,
Vellore District.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.A3/13802/2014 dated 04.09.2015, quash the same and consequently direct the 2nd respondent to give appointment order to the petitioner on compassionate ground.

For Petitioner : Mr.A.Sivaji

For Respondents : Mr.C.Selvaraj
Government Advocate (Civil Side)

O R D E R

The petitioner has applied for appointment on compassionate grounds on the demise of his father. The petitioner's father was appointed as Village Assistant on 03.07.1991 and while he was in service, he died on 03.08.1999 leaving behind the petitioner, his mother and sisters as his legal heirs. Even though the mother of the petitioner applied for appointment on compassionate ground, no such appointment was given. Again, the petitioner applied for the same on 27.12.2010. The application was returned for rectification of certain defects. The petitioner has complied with the returns and produced all the required certificates. After considering the same, his application was rejected on the grounds that the vacancy does not fall within the roster of his community. It is



relevant to note that the petitioner belongs to Scheduled Caste (Adi-Dravida) community and that he has clearly explained the indigent circumstances of his family and his position without employment.

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2.From the materials produced before this Court, it is clearly seen that the family of the petitioner still suffers from indigent circumstances. He belongs to an oppressed class also. It is well settled that for compassionate appointment, the seniority of the applications shall be considered. There cannot be any roster on the basis of community for compassionate appointment. The main object of granting compassionate appointment is to provide immediate rehabilitation to the family due to the sudden demise of the sole breadwinner. But the delay caused by the respondents runs contrary to the object. Such delays shall be avoided.

3.The Government has issued Special Rules for Tamil Nadu Village Servants Service vide G.O.Ms.No.521, Revenue dated 17.06.1998, in which, Rule 4 specifies that reservation of appointment is applicable only to the post by direct recruitment. That will not apply to the candidates who are considered for appointment on compassionate ground. While the petitioner fulfills all other requirements, it is for the respondents to consider his case without insisting on communal reservation and roster.

4.It is also relevant to note that this Court in W.P.Nos.31317 of 2012 and 9600 of 2013 dated 19.02.2015 has declared that the restrictions imposed by the Government for appointing the last grade servants will be violative of Articles 14 and 16 of the Constitution and confining the candidate within within the particular distance is contrary to the rules.

5.In this case, when a person for appointment on the grounds of compassionate appointment is available, he cannot be denied of his employment on the ground of non-availability of roster point for his community. As observed above, the object of the scheme is only to relieve the distress families from their indigent circumstances. Therefore, roster cannot be applied to these appointments. Further, as per G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2020, the date of death of a Government Servant is the criteria for providing compassionate appointment.

6.In such circumstances, the impugned order dated 04.09.2015 passed by the second respondent in Na.Ka.A3/13802/2014 is set aside and a direction is given to the respondents to consider the case of the petitioner for compassionate appointment, as per G.O.Ms.No.18, Labour and Employment Department, dated



23.01.2020, only on the basis of seniority, without insisting on the communal roster and complete the process, within a period of three months from the date of receipt of a copy of this order.

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7.The writ petition is ordered accordingly. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

TK

To

1. The District Collector
Vellore.
2. The Tahsildar
Tirupattur,
Vellore District.

+1cc to the Government Pleader, S.R.No.36920

WP NO.40169 OF 2015

PCH(CO)
PBS(25/08/2021)