

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.11851 of 2014

Ganesan

... Petitioner

Vs

- 1.The State of Tamilnadu
Rep by its Secretary
The Labour and Employment (Q) Department,
Government of Tamilnadu,
Fort St.George, Chennai.
- 2.The Secretary,
Revenue Department,
Government of Tamilnadu,
Fort St.George, Chennai.
- 3.The Special Commissioner cum
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai.
- 4.The District Collector,
Nagapattinam District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of 1st Respondent relating to G.O.Ms.No.78 Labour and Employment (Q) Department dated 17.07.1998 and quash the same in so far as it insists production of declaration from competent Court that the missing Government servant is dead for getting compassionate appointment and consequently direct the respondents to consider the request of the petitioner for compassionate appointment on disappearance of his father on 24.08.2010 while he was serving as Village Assistant Karuvazhakarai Village, Tharangambadi Taluk, Nagapattinam District without insisting on production of declaration of his death by competent Court.

For Petitioner : Mr.S.Sounthar

For R1 to R4 : Mr.R.S.Selvam, GA

ORDER

The relief sought for in this writ petition is to issue a writ of Certiorarified Mandamus, calling for the records of the first Respondent relating to G.O.Ms.No.78 Labour and Employment (Q) Department dated 17.07.1998 and quash the same insofar as it insists the production of declaration from the competent Court that the missing Government servant was dead for getting compassionate appointment and consequently direct the respondents to consider the request of the petitioner for compassionate appointment, on disappearance of his father on 24.08.2010 while he was serving as Village Assistant, Karuvazhakarai Village, Tharangambadi Taluk, Nagapattinam District, without insisting on production of declaration of his death by the competent Court.

2. According to the petitioner, his father Kaliaperumal was working as Village Assistant, Karuvazhakarai Village, Tharangambadi Taluk, Nagapattinam District, in regular time scale from 01.06.1995 and he was found missing from 25.08.2010 onwards, while he was taking treatment in a Hospital at Chennai. In this regard, a criminal case in Crime No.31/2010 on the file of C4, Rajiv Gandhi Government General Hospital Police Station, Chennai, was registered on 25.08.2010. Consequently, the retirement benefits due to him was settled to the petitioner, as per the Government Lr.No.21396A/Pension/91-2 dated 09.04.1991. Thereafter, the petitioner made a request to the third respondent on 28.11.2012 to provide compassionate appointment to him and the same was forwarded to the 4th respondent, who in turn by Lr.No.31989/2012/A3 dated 22.02.2013 rejected the same, stating that only after production of declaration from a competent Civil Court that his father was dead, his claim would be considered. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, a detailed counter affidavit was filed by the respondents, stating that the application seeking appointment under the Scheme should be made within three years from the date of declaration made by the competent Court declaring the missing Government servant as dead, whereas the petitioner has not complied with the said requirement and hence, his request was rejected by the fourth respondent. It is also stated that the family pension due to the family of the disappeared employee was duly sanctioned by the Accountant General vide PPO No.F.1305378 / 28 dated 22.04.2013 and the other benefits such as surrender of earned leave, General Provident Fund, were settled.

4.Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that the insistence of production of declaration from the competent Civil Court would make the petitioner to wait for a minimum period of seven years, by then, the very purpose of giving compassionate appointment to the family members who are in indigent circumstances, would get defeated. However, the learned counsel submitted that as directed by the respondents, the petitioner already moved the Civil Court and filed a suit in O.S.No.300 of 2018 for getting such a declaration.

5.In view of the submissions so made by the learned counsel for the petitioner, this Court is of the opinion that it is for the petitioner to get the declaration from the Civil Court and produce the same to the respondent authorities, so as to provide employment on compassionate ground and therefore, nothing survives for adjudication in this writ petition.

6.In such view of the matter, this writ petition stands disposed of, granting liberty to the petitioner to pursue the matter and after getting declaration from the Civil Court, make a request seeking compassionate appointment to the respondent authorities; and as and when such request is made by the petitioner, the respondents shall consider the same and pass appropriate orders, on merits and in accordance with law. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

- 1.The Secretary
Labour and Employment (Q) Department,
Government of Tamilnadu,
Fort St.George, Chennai.
- 2.The Secretary,
Revenue Department,
Government of Tamilnadu,
Fort St.George, Chennai.
- 3.The Special Commissioner cum
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai.

4.The District Collector,
Nagapattinam District.

+1cc to the Government Pleader, S.R.No.20553

W.P.No.11851 of 2014

VBM(CO)
CB(06/07/2021)



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