

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.05.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24343 of 2019

V.Prasanna Venkatesh

.... Petitioner

Vs

1. The District Educational Officer,
District Education Office,
Mayiladuthurai - 609 001.
2. The District Educational Officer,
District Education Office,
Nagapattinam - 611 003.
3. The District Elementary Educational Officer,
District Elementary Education Office,
Nagapattinam - 611 001.
4. The Assistant Elementary Educational Officer,
Mayiladuthurai, Nagapattinam District-609 001.
- 5.The Head Master,
Panchayat Union School,
Athur, Mayiladuthurai Union,
Nagapattinam District - 609 204.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 3 and 4 to grant employment to the petitioner on compassionate grounds by considering the representation dated 01.08.2019 within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.M.Arvind Subramanian

For Respondents : Mr.M.Elumalai, Additional
Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Mandamus to direct the respondents 3 and 4 to grant employment to the petitioner on compassionate grounds by considering the representation dated 01.08.2019 within a time frame to be fixed by this Court.

2. The petitioner's father one Vivekanandan was employed in the Panchayat Union School, Athur, Mayiladuthurai Union, Nagapattinam District ie., the fifth respondent School. While he was in service, he passed away on 05.02.2012 leaving behind his wife and the petitioner, who is the son of the deceased, as his legal heirs. When his father passed away, the petitioner was a minor. Therefore, on his behalf, the mother of the petitioner sent a representation to the third and fourth respondents to consider and give appointment to the petitioner under compassionate ground. Since he was still minor, that was not considered and after attaining majority, the petitioner had sent several representations and applications. However, the same has not been considered so far. In this regard, on 01.08.2019, the petitioner has given a further representation, as the family of the petitioner is suffering to make both ends meet. Therefore, in order to bail out the family of the deceased Government Servant, the request of the petitioner for compassionate appointment can be directed to be considered, in this context the present writ petition with the aforesaid prayer has been filed by the petitioner.

3. Heard Mr.Arvind Subramanian, learned counsel appearing for the petitioner, who, after having reiterated the aforesaid facts, seeks the indulgence of this Court to issue suitable direction to the respondents especially the first respondent to consider the application of the petitioner dated 01.08.2019 and pass orders thereon, on merits and in accordance with law within a time frame that may be stipulated by this Court.

4. Heard Mr.M.Elumalai, learned Additional Government Pleader appearing for the respondents, who would submit that, admittedly when the application was filed, the petitioner was a minor. The compassionate appointment scheme itself is being envisaged only to bail out the family which is in indigent circumstances on the sudden demise of the Government Servant, who was the sole breadwinner of the family and in cases where, at the time of the death of the Government Servant, if there is no one to take compassionate appointment and if the wards of the Government Servant are children under 18 years of age and they are minors, that kind of applications normally would not be considered and merely because after some years they become

major, that would not ipso facto give any leverage to those who seek for compassionate appointment after several years from the date of death of the Government Servant.

5. In this context, number of judgments have been passed by this Court and recently a Full Bench judgment of this Court also has reiterated the aforesaid legal position. This Court, by a number of orders passed by the Division Bench as well as Single Judges have made it clear that, once a three years rule is prescribed, within which the legal heir has become major and within which the application has been filed in time, that can be considered and there is no impediment for the authorities to consider the same.

6. Nevertheless, since the representation of the petitioner is dated 01.08.2019 and in view of the innocuous prayer sought for in this writ petition to consider the said representation, certainly the representation would be considered by the first respondent and order to that effect would be passed on merits within a time frame to be stipulated by this Court, he contended.

7. Considering the said submissions made by the learned counsel for the parties, especially the submission made by the learned Additional Government Pleader, who has reiterated the legal position as already been declared by this Court by number of judgments including the recent Full Bench judgment, I am of the considered view that the representation of the petitioner dated 01.08.2019 can be considered on merits and in accordance with law and give a quietus by passing final orders thereon, within a time frame.

8. In view of the aforesaid discussion, this Court is inclined to dispose of this writ petition with the following order.

"That there shall be a direction to the first respondent to consider the representation of the petitioner dated 01.08.2019 and pass orders thereon, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order."

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

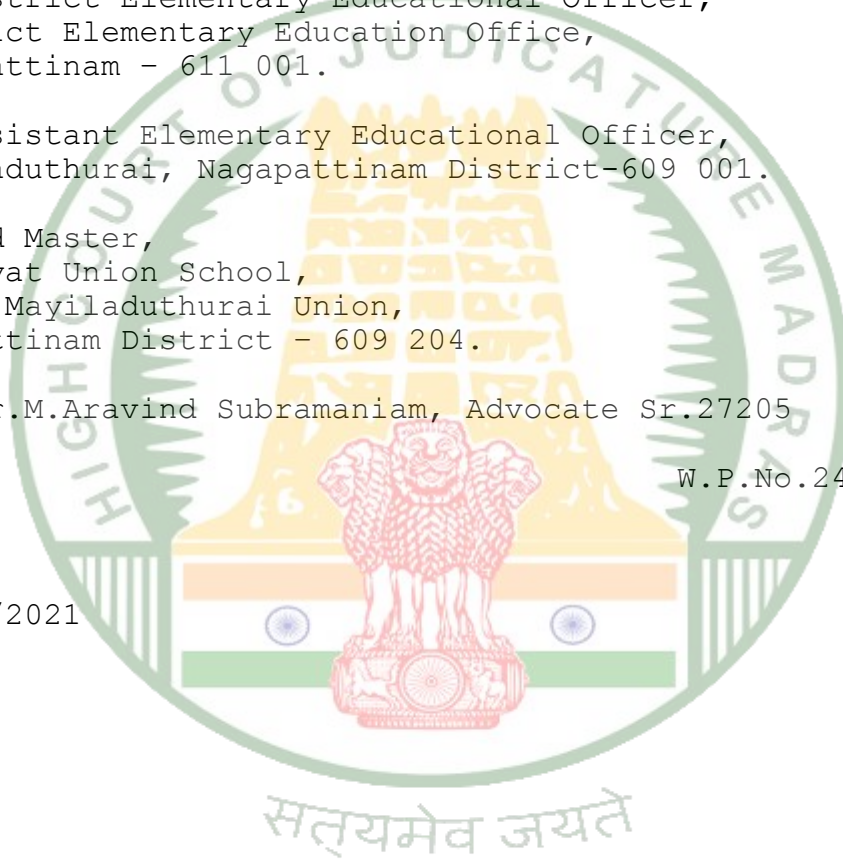
To

1. The District Educational Officer,
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Nagapattinam - 611 003.
3. The District Elementary Educational Officer,
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5. The Head Master,
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Nagapattinam District - 609 204.

+lcc to Mr.M.Aravind Subramaniam, Advocate Sr.27205

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srg 17/05/2021



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