



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.303 of 2021

M.Vapar Manikandan

... Petitioner

Vs.

1.The Director General of Police,
Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Commissioner of Police,
Tirunelveli City,
South High Ground Road,
Palayamkottai
Near Anna Stadium
Tirunelveli-627 002

3.M.Ramani
4.M.Sangami
5.M.Sangavi
6.M.Sankari

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent impugned communication Na.Ka.No.A4/23694/2014, dated 27.11.2020 and quash the same as devoid of merits consequentially directing the 2nd respondent to grant compassionate ground appointment to the petitioner based on his application dated 08.03.2017 within a period stipulated by this Court.

For Petitioner : Mr.Haja Mohideen.A
For R1 and R2 : Mr.M.Muniyasamy
Additional Government Pleader

O R D E R

This writ petition is filed challenging the impugned communication passed by the second respondent in Na.Ka.No.A4/23694/2014, dated 27.11.2020 and quash the same and further, direct the second respondent to grant compassionate appointment to the petitioner based on his application, dated 08.03.2017.

2.By consent of both parties, this writ petition is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>



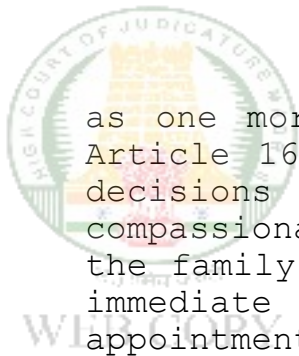
3.The case of the petitioner is that the petitioner's father viz., Late A.Maharajan, was working as a Assistant Commissioner of Police, City Crime Branch, Tirunelveli. While he was in service, he died on 30.07.2014 leaving behind the petitioner, two wives and the respondents 3 to 6 as his legal heirs. Due to misunderstanding between them, the petitioner's father deserted his mother. Therefore, petitioner's mother has filed a petition for maintenance in M.C.No.11 of 1993 before the learned Judicial Magistrate No.VI, Madurai. The learned Judicial Magistrate has issued a direction to the petitioner's father to pay the maintenance amount to the petitioner's mother and the petitioner. In such circumstances, the petitioner's father lived with the third respondent in Chennai and the respondents 4 to 6 herein are their children. After the death of the petitioner's father, the petitioner made an application on 08.03.2017 for compassionate appointment. Further, the sixth respondent has also submitted a petition for compassionate appointment, pursuant to which, the second respondent conducted an enquiry and passed the impugned order. Challenging the same, the petitioner has filed the present writ petition.

4.The learned counsel appearing for the petitioner would submit that the petitioner is the only legal heir, which was confirmed by the learned Judicial Magistrate No.VI, Madurai, on the strength of the order passed in the maintenance petition. Hence, the impugned order passed by the second respondent is unsustainable.

5.The learned Additional Government Pleader appearing for the respondents would submit that since there is a dispute between the legal heirs of the two wives for getting appointment on the compassionate ground, the second respondent cannot grant compassionate appointment and therefore, the second respondent has rightly rejected the application of the petitioner and therefore, no interference is warranted with the order passed by the respondent.

6.It is seen that on earlier occasion, the sixth respondent, who is one of the legal heirs, has made an application, immediately after the death of his father on 05.11.2014. However, the petitioner has made an application on 08.03.2017, after a lapse of three years and there is a dispute between the legal heirs of two wives for getting appointment on compassionate ground. The dispute between the parties has to be resolved before the competent Court and not before this Court.

7.The purpose of providing employment on compassionate basis is to mitigate the hardship of the family, which has arisen due to the death of the employee and such appointment therefore, has to be provided immediately to ensure that the family tides over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a



as one more source of recruitment, then, it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court that an appointment on compassionate basis is a concession given by the employer to help the family of the deceased, who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

8. In view of the above, this Court is of the considered view that there is no merit in this writ petition and the impugned order warrants no interference. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Director General of Police,
Director General of Police,
Dr. Radhakrishnan Salai, Mylapore, Chennai-600 004.

2. The Commissioner of Police,
Tirunelveli City,
South High Ground Road,
Palayamkottai, Near Anna Stadium, Tirunelveli-627 002.

+1 CC to M/s.GP (SR-1156[F] dated 19/01/2021)

W. P. (MD) No. 303 of 2021

11.01.2021

(SJ) CO

AP(10/02/2021) 3P 4C