



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.3474 of 2021

and

MP (MD)No.2812 of 2021

WEB COPY

M.Sankara Subramanian

... Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu Police Department,
Dr.Radhakrishnan Road,
Mylapore,
Chennai - 600 004.

2.The Deputy Inspector General of Police,
Deputy Inspector General Office,
Tirunelveli District,
Tirunelveli.

3.The District Collector,
Tirunelveli,
Tirunelveli District.

4.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.A3/35726/2020 dated 11.01.2021 passed by the 4th respondent and quash the same as illegal and consequently directing the respondents to grant the compassionate appointment for the petitioner within the time to be stipulated by this Court.

For Petitioner : Mr.S.R.A.Ramachandran

For Respondents : Mr.A.K.Manikkam
Counsel for State

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.A3/35726/2020 dated 11.01.2021 passed by the 4th respondent and to quash the same as illegal and consequently to direct the respondents to grant the compassionate appointment for the petitioner within the time to be stipulated by

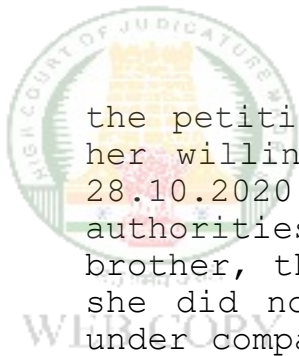


this Court.

2. By consent of both parties, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the Petitioner, his father namely, Muthupandi who was working as a Head Constable at Kalladaikurichi Police Station, Tirunelveli District, died in harness on 18.08.2006 leaving behind his mother and two sisters and himself. His father was only the bread winner and due to his sudden death, they are facing difficulties to eke out their livelihood. Hence, the Petitioner's mother made representation to the fourth respondent seeking compassionate appointment to the petitioner in the year 2008, while the petitioner was a minor. Again after the petitioner attaining the age of majority, the petitioner's sisters made no objection letter to the 4th respondent to provide compassionate appointment to the petitioner. The fourth respondent vide letter dated 04.02.2015 informed the petitioner that his elder sister namely, M. Rajalakshmi was found in the waiting list for providing compassionate appointment. Thereafter, the petitioner made a representation dated 20.02.2016 to the fourth respondent stating that his sister Rajalakshmi already got married and provide compassionate employment to him. The fourth respondent vide letter dated 3/2016 directed the petitioner to produce the consent letters from his sisters. The petitioner, thereafter made a representation on 07.11.2020 seeking for compassionate appointment. However, the fourth respondent by order dated 11.01.2021, rejected the claim of the petitioner and directed his sister M. Rajalakshmi to join the duty as Data Entry Assistant. Aggrieved by the said order, the petitioner has come forward with the present Writ Petition.

4. A counter affidavit has been filed on behalf of the 4th respondent, wherein, it is stated that after demise of the deceased employee, his wife, i.e. mother of the petitioner submitted a petition, requesting compassionate appointment on 27.09.2007 to her elder daughter Selvi Rajalakshmi and the same was included in the waiting list at Sl.No.833. Subsequently, the District Collector, Tirunelveli sent a communication, to obtain willingness of the persons in the waiting list for the post of Process Server at District Principal Court, Tirunelveli. Pursuant to the same, consent was called for, from the sister of the petitioner, who in turn has not expressed her willingness within the time prescribed. In the mean time, the petitioner submitted a petition on 19.02.2016, requesting the allotment of the job allotted to his sister as Process Server to him. By communication dated 29.08.2018, the petitioner was informed that it is not possible to give job to him instead of his sister. Later, the Government issued orders in G.O.Ms.No.406 Home (Pol.XV) Department dated 09.10.2020 to appoint as Data Entry Assistants in respect of the persons placed in the waiting list for appointment on compassionate ground. Hence, the



the petitioner, who was in the waiting list, asking her to furnish her willingness to the post of Data Entry Assistant on or before 28.10.2020. To this, the sister of the petitioner sent reply to the authorities, requesting to give appointment in favour of her brother, the petitioner herein on 9.11.2020 through E mail. However, she did not turn up for joining the post of Data Entry Assistant under compassionate ground. Thereafter, the 4th respondent rejected the claim based on the G.O.Ms.No.18 Labour and Employment Department, dated 23.01.2020 stating that alternative application may be accepted from another legal heir of deceased Government employee subject to conditions prescribed for compassionate ground appointment. Hence, vide Office endorsement dated 11.01.2021, the said Rajalakshmi was served with order and the same was acknowledged by her on 22.01.2021, but she did not come forward to accept the offer of appointment. Another chance was also given to her through, Office endorsement dated 25.01.2021 and was served on her to express her willingness to accept the employment within 7 days. Despite receipt of the said communication, she did not appear to join the post of Data Entry Assistant. Finally, as per the existing Government Rules as there is no provision to provide a job to the petitioner herein, the 4th respondent rejected the claim of the petitioner. Therefore, the order passed by the 4th respondent is in consonance with law and hence, the 4th respondent sought for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. In fact, after demise of the deceased employee, his wife, i.e. mother of the petitioner had applied to the 4th respondent, seeking to provide compassionate employment to her elder daughter M. Rajalakshmi, which was considered by the Department and assigned Sl.No.833 in the waiting list. But this fact was not disclosed by the petitioner in the Writ Petition. Later, the Government issued orders in G.O.Ms.No.406 H.O.M. (Pol.XV) Department dated 09.10.2020 to appoint as Data Entry Assistants in respect of the persons placed in the waiting list for appointment on compassionate ground. Hence, the 4th respondent sent communication dated 23.10.2020 to the sister of the petitioner, who was in the waiting list, asking her to furnish her willingness to the post of Data Entry Assistant on or before 28.10.2020. But, instead of giving her willingness, the sister of the petitioner requested the 4th respondent to give appointment in favour of her brother. Thereafter, even though the 4th respondent vide proceedings impugned in the Writ Petition, while rejecting the claim of the petitioner, directed the sister of the petitioner to join the post of Data Entry Assistant within a period of seven days, but she did not join the same. It is pertinent to note that after applying for compassionate employment to the sister of the petitioner in the year 2007, when the appointment was <https://hcservices.ecds.gov.in/hcservices/> instead of joining duty, the petitioner was again



made a representation after a period of ten years for providing compassionate employment to him instead of her sister. This was rightly rejected by the 4th respondent. In fact, when the initial application was made in the year 2007, the petitioner was admittedly a minor. The very scheme of providing compassionate appointment can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide employment assistance as and when the son or daughter of the deceased employee attains majority. Under the scheme, the Department is not obligated to keep any post vacant, till the applicant attains majority or to consider his candidature on attaining majority.

7.The 4th respondent has clearly assigned the reason in the impugned order dated 11.01.2021 that as per G.O.Ms.No.18, dated 23.01.2020, that alternative application from another legal heir of the deceased Government servant may be accepted only if the applicant died after applying appointment on compassionate ground. In the present case, according to the petitioner, since her sister got married and settled, he wants to be appointed in her place. The claim of the petitioner was rightly rejected by the 4th respondent and this Court does not find any infirmity or illegality in order to interfere with the same.

8.For the foregoing reasons, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Director General of Police,
Tamil Nadu Police Department,
Dr.Radhakrishnan Road,
Mylapore,
Chennai - 600 004.



2.The Deputy Inspector General of Police,
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3.The District Collector,
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4.The Superintendent of Police,
Tirunelveli District,
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+1 CC to M/s.GP (SR-28682[F] dated 09/09/2021)

W.P (MD) No.3474 of 2021
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RS (30.09.2021) 5P 6C