



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.4060 of 2020

Mr.Raveendran

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
No.170, N.V.Natarajan Maligai,
E.V.R.High Road,
Kilpauk,
Chennai - 10.

2. The Joint Registrar of Co-operative Societies,
Tirunelveli Region,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.3576/2019 Pa Tho dated 16.07.2019 and quash the same and consequently direct the respondents to give compassionate appointment to the petitioner on the basis of the petitioner's educational qualification.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.S.Shanmugavel
Counsel for State.

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.3576/2019 Pa Tho dated 16.07.2019 and quash the same and consequently direct the respondents to give compassionate appointment to the petitioner on the basis of the petitioner's educational qualification.

2. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, the petitioner's father was working as Senior Inspector, Co-operative Department, Tirunelveli District and died on 11.11.2018 while he was in service.



Thereafter, the petitioner submitted a representation dated 27.05.2019 to the second respondent requesting him to consider his claim for compassionate appointment. The second respondent has passed impugned order dated 16.07.2019 rejecting the claim of the petitioner on the ground that he has crossed upper age limit of 35 years for compassionate appointment. Challenging the said order, the present writ petition has been filed before this Court.

5. According to the petitioner, the petitioner is entitled for compassionate appointment as per Government Order, the age of the son or daughter of the deceased employee is 40 years, whereas, the respondent has rejected the said claim by citing the reason that he has crossed 35 years. The petitioner has also relied on the G.O.(Ms) No.18, Labour and Employment (Q1) Department dated 23.01.2020 which prescribes maximum age limit for providing compassionate appointment is 40 years and hence, he is entitled to the appointment on compassionate grounds.

6. In the counter affidavit filed by the second respondent, it has been stated that petitioner's father was suspended while he was working as Senior Inspector of Co-operative Societies vide proceedings of the second respondent dated 29.04.2018 and while he was under suspension, he expired on 11.11.2018. A criminal case was also pending against the petitioner's father and abated from the said case as per the order of the Judicial Magistrate No.II, Tirunelveli dated 26.11.2018. Therefore, the second respondent vide his impugned proceedings dated 24.04.2019 has ordered to revoke the suspension orders on 11.11.2018 as per the provisions of the Tamilnadu Civil Services(Discipline and Appeal) Rules. Therefore, it is stated in the counter affidavit that as per G.O.(Ms) No.18, Labour and Employment (Q1) Department dated 23.01.2020, the petitioner has no locus standi to claim for compassionate appointment since it is clearly stated in page 5 of the said G.O., that the legal heirs of the persons who are retained in service under fundamental rule 56(1)(c) after the death/superannuation of the deceased employee, are not eligible for consideration under compassionate appointment. It is also stated that in the policy of the Government, there was no provision for grant of relaxation of the age of the schedule caste candidate for the purpose of compassionate appointment.

7. On considering the submissions of the learned counsel on either side and on perusal of the impugned order that petitioner's application has been rejected on the ground that he has crossed the upper age limit of 35 years and also the G.O.(Ms) No.18, Labour and Employment (Q1) Department dated 23.01.2020 and in the counter affidavit it was stated that the petitioner's father was suspended while he was in service therefore, the petitioner was not eligible for compassionate appointment. But no such reason as stated above was mentioned in the impugned order and therefore, this Court is



petitioner has crossed the upper age limit of 35 years at the time of submitting the application cannot be sustained in the light of the G.O.(Ms) No.18, Labour and Employment (Q1) Department dated 23.01.2020, the maximum age limit of the son or daughter of the deceased is 40 years at the time of applying for compassionate appointment. Therefore, the said aspect was not considered by the respondents, which therefore, requires for re-consideration by the authority concerned. Therefore, this Court is of the view that the impugned order passed by the second respondent cannot be sustained and the same is liable to be quashed.

8. Accordingly, the impugned order passed by the second respondent in Na.Ka.No.3576/2019 Pa Tho dated 16.07.2019 is hereby quashed. The second respondent is directed to consider the petitioner's representation dated 27.05.2019 on merits and pass appropriate orders in accordance with law in the light of the G.O. (Ms) No.18, Labour and Employment (Q1) Department dated 23.01.2020, after providing an opportunity to the writ petitioner within a period of eight(8) weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Registrar of Co-operative Societies,
No.170, N.V.Natarajan Maligai,
E.V.R.High Road,
Kilpauk,
Chennai - 10.



2. The Joint Registrar of Co-operative Societies,
Tirunelveli Region,
Tirunelveli District.

+1 CC to M/s.GP (SR-27174[F] dated 25/08/2021)

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