



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.8290 of 2021
and
W.M.P (MD)No.6273 of 2021

K.Kalai Selvan

... Petitioner

vs .

1. The Director,
O/o.The Directorate of Public Health and
Preventive Medicine,
No.359, Anna Salai,
Chennai - 6.

2. The Deputy Director of Health Services,
Thanjavur,
Thanjavur District.

... Respondents

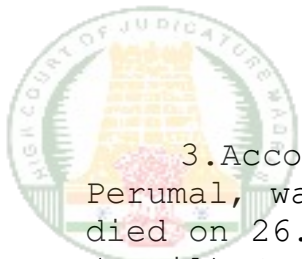
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in O.Mu.No.26510/Pa.Tho.3/Iru 2/2021, dated 22.03.2021 passed by the first respondent and to quash the same as arbitrary and consequently to direct the first respondent to appoint the petitioner on compassionate ground in any suitable post in the respondents Department within the time limit stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus, to quash the impugned order in O.Mu.No.26510/Pa.Tho.3/Iru 2/2021, dated 22.03.2021, passed by the first respondent and consequently to direct the first respondent to appoint the petitioner on compassionate ground in the respondents Department within the time limit to be fixed by this Court.

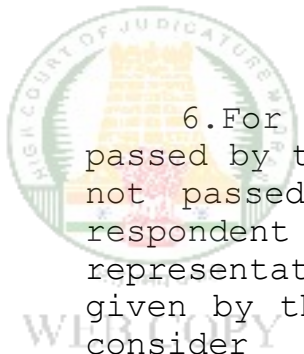
2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.



3. According to the petitioner, while his father, namely Kaliya Perumal, was serving as a Field Worker in the respondents Department, died on 26.03.2012. Further, according to the petitioner, he is a M.A (Tamil) Graduate. Hence, the petitioner sent a representation to the second respondent on 23.03.2015, seeking appointment on compassionate ground enclosing all the documents required by the respondents. On receipt of the said application, the second respondent directed the petitioner to obtain Legal Heirship Certificate of his father, since his father had two wives. The petitioner along with others filed a suit in O.S.No.78 of 2016 on the file of the District Munsif and Judicial Magistrate, Pabanasam. Pending the suit, the parties entered into the compromise. The trial Court, based on the compromise memo, by Judgment and Decree, dated 28.08.2017, decreed the suit in favour of the petitioner. Thereafter, the petitioner again sent a representation to the respondents enclosing all the required documents. The second respondent forwarded the same to the first respondent. In the meantime, the first respondent, vide proceedings in O.Mu.No.26510/Pa.Tho.3/Iru2/2021, dated 22.03.2021, rejected the application on the ground that the petitioner submitted the application seeking compassionate appointment after a lapse of three years from the date of death of his father. Challenging the same, the petitioner has come out with the present Writ Petition.

4. The learned Special Government Pleader appearing for the respondents produced the written instructions of the second respondent, dated 24.04.2021 and submitted that the application sent by the petitioner seeking appointment on compassionate ground has been sent to the another Section (E3 Section) of the Directorate Office and the application submitted by the petitioner is under consideration.

5. It is seen from the records that the petitioner has sent a representation on 23.03.2015 for appointment on compassionate ground within three years from the date of death of his father. Again he has sent a representation to the second respondent with all the required documents and the second respondent has forwarded the same to the first respondent. Based on the representation of the petitioner, the first respondent, by impugned order, dated 22.03.2021, rejected the request of the petitioner for appointment on compassionate ground on the ground that the petitioner has not made request for appointment on compassionate ground within three years from the date of death of his father. The said reason is contrary to the intervening correspondence between the respondents. The intervening correspondence and the written instructions given by the second respondent, which was produced by the learned Special Government Pleader, show non-application of mind of the first respondent and the first respondent has not properly appreciated the materials placed before him.



6.For the above reasons, the impugned order, dated 22.03.2021, passed by the first respondent is set aside. The first respondent has not passed order based on the communication sent by the second respondent along with the records of the deceased employee and representation of the petitioner. In view of the written instructions given by the second respondent, the first respondent is directed to consider the petitioner's application for appointment on compassionate ground suitable to his educational qualification and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above directions, the Writ Petition is allowed. No costs. consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// 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,
O/o.The Directorate of Public Health and
Preventive Medicine,
No.359, Anna Salai, Chennai - 6.

2. The Deputy Director of Health Services,
Thanjavur, Thanjavur District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 18423

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W.M.P(MD)No.6273 of 2021
30.04.2021

PS

TE : 24/05/2021 : 3P/4C

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