



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.6387 of 2019

and W.M.P. (MD) No.5093 of 2019

WEB COPY

G.Neethipathi

... Petitioner

Vs.

- 1.The Director of School Education,
DPI Complex,
College Road, Chennai - 6.
- 2.The Director of Elementary Education,
DPI Complex,
College Road, Chennai - 6.
- 3.The Chief Educational Officer,
Chief Educational Office,
Thanjavur.
- 4.The District Educational Officer,
District Elementary Educational Office,
Pattukottai, Thanjavur.
- 5.The District Elementary Educational Officer,
Sethupavasathiram Union,
At Kuruvikarambai,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in Na.Ka.No.12027/A1/2014, dated 28.11.2014 passed by the 4th respondent and quash the same and consequently direct the respondents to consider the petitioner's application dated 30.07.2014 for compassionate appointment together with his representation dated 01.07.2015.

For Petitioner : Mr.T.Sekar

For Respondents : Mr.S.Shanmugavel,
Standing Counsel for Govt.

ORDER

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 28.11.2014, passed by the fourth respondent and to direct the respondents to consider



the petitioner's application dated 30.07.2014 for compassionate appointment together with his representation dated 01.07.2015.

2. The case of the petitioner is that his father was working as Headmaster at Panchayat Union School, Puthupattinam, Sethupavachathiram Union, Thanjavur District and he died on 16.05.2006, while he was in service. On 30.01.2009, the petitioner's brother viz., Sakkaravarthi made an application to the respondent, seeking compassionate appointment, enclosing all necessary documents. While the same is pending, the petitioner has submitted an application on 30.07.2014, to the fifth respondent seeking compassionate appointment. However, the request of the petitioner was rejected on the ground that there is no provision for giving compassionate appointment to the alternative legal heirs. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner's brother viz., Sakkaravarthi has submitted the application, seeking compassionate appointment within the three years period and due to the *bona fide* reasons, the petitioner has submitted an application on 30.07.2014, seeking compassionate appointment to him. The petitioner's brother also submitted a representation dated 30.07.2014 to the fourth respondent, requesting to provide compassionate appointment to the petitioner. Therefore, the impugned order is unsustainable and the same is liable to be set aside.

4. The learned Standing Counsel for Government appearing for the respondents submitted that there was no evidence available on record to show that the petitioner's brother has submitted an application on 30.01.2009. In respect of the petitioner's application, seeking compassionate appointment is concerned, the learned counsel appearing for the respondent has relied on a judgment of this Court in ***W.A.No.1480 of 2018 [S.Rajesh Vs. Managing Director]***, dated 25.07.2018 and submits that following the decisions of the said judgment, this Writ Petition is liable to be dismissed.

5. I have anxiously considered the rival submissions and perused the materials available on record.

6. Though the learned Standing Counsel for Government appearing for the respondents submitted that there was no proof available on record to show that the petitioner's brother has submitted an application on 30.01.2009, in the typed set of papers it is seen that in the copy of the petitioner's brother application viz., Sakkaravarthi, a stamp seal has been endorsed by the Assistant Elementary Educational Officer, Sethupavasathiram. According to the petitioner, the aforesaid application is pending and no order has been passed on the said application. However, the said Sakkravarthi has not approached this Court, seeking to consider his application.



The petitioner being the younger brother of the said Sakkravarthi has filed the present Writ Petition, seeking compassionate appointment for another legal heir. This issue has been elaborately considered by the Division Bench of this Court in **W.A.No.1480 of 2018 [S.Rajesh Vs. Managing Director]**, dated 25.07.2018, wherein this Court has held as follows:

"16. The learned single Judge has placed reliance on number of other cases wherein it was held that claim for compassionate appointment is traceable only to the scheme framed by the employer and there is no right of what so ever nature to claim compassionate appointment of any ground other than those provide for under the scheme. Compassionate appointment is not a vested right which can be claimed after lapse of time much after the crisis is over. The continuation of the indigency alone cannot be considered by the department while examining the request of the applicant for appointment of compassionate ground. In the present case, the petitioner could not claim is right to appoint of compassionate ground years after is father had passed away. Further the letter rejecting the claim of the petitioner states that the respondents made a reference to the Government seeking clarification as whether the compassionate appointment could be considered to another legal heir when a representation was already made by another legal heir seeking compassionate appointment is pending. The Government clarified that there was not possible. Appointment on compassionate ground can be made only in accordance with the scheme. The order of single Judge does not warrant any interference."

7. In view of the aforesaid decision, this Court finds no reason to interfere with the impugned order passed by the fourth respondent dated 28.11.2014. Accordingly, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

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+1 CC to M/s.GP (SR-26762[F] dated 19/08/2021)

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18.08.2021

RK (01.09.2021) 4P 7C