



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.9479 of 2018

and

WMP. (MD) .No.8731 of 2018

A. Lalith Kumar

... Petitioner

Vs.

1. The Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai.

2. The Director of Public Libraries,
Anna Saalai,
Chennai - 600 002.

3. The District Library Officer,
District Central Library, Dindugul,
Dindugul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order passed by the third respondent in proceedings Na.Ka.No.1249/A/2015 dated 07.04.2016 and quash the same and consequently direct the respondents 1 to 3 to appoint the petitioner in any suitable post on compassionate grounds.

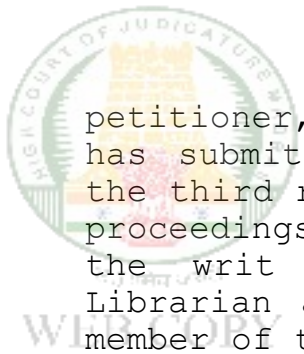
For Petitioner : Ms.R. Prem Narayan

For Respondents : Mr. S. Shanmugavel
Standing Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 07.04.2016, passed by the third respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. According to the writ petitioner, his father was working as Record Clerk in the District Central Labour, Dindugul and he died on 23.07.2015, while he was in service leaving behind the writ



petitioner, his brother and his mother. Thereafter, the petitioner has submitted an application seeking compassionate appointment to the third respondent. The aforesaid application was rejected through proceedings dated 07.04.2016 by the third respondent by stating that the writ petitioner's younger brother is working as Village Librarian at Mallapuram Village, Dindugul District and if any one member of the family of a deceased Government Servant is employed in the Government, other members of the family become ineligible for compassionate appointment.

3. According to the petitioner, the aforesaid brother A. Sharathkumar was appointed even prior to the death of the father and he is a married person and living separately without extending any help to him and the his mother. The writ petitioner and his mother were solely dependant on the deceased father of the petitioner.

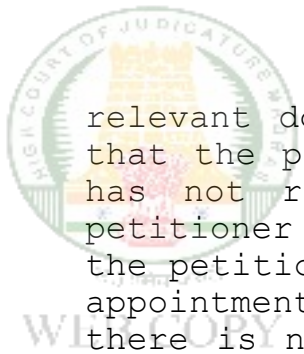
4. The learned counsel for the petitioner would submit that the third respondent did not grant any opportunity to the petitioner to provide the relevant records showing proof that he is not having any income for the livelihood and to take care of his aged mother before the authority to satisfy them. Therefore, the said order passed by the third respondent is liable to be set aside.

5. The learned Standing Counsel appearing for the second respondent has filed a counter affidavit. In the said counter, it is stated that the aforesaid deceased father was working as Record Clerk in the District Central Labour, Dindugul under the control of the third respondent and he died while he was in service on 23.07.2015 As per G.O.Ms. No.155, Labour and Department dated 16.07.1993 and Government Letter 31, Labour and Employment Department dated 25.02.1994 wherein it is stated as follows:

"Even if one member of the family other than the deceased Government servant was employed over before the death of the Government servant and was living separately without extending any help to the family then, the case of other eligible person may be considered".

6. He further stated that the petitioner has not placed any relevant material before the authority concerned to consider his claim that his brother was appointed even prior to the death of the father and he is a married person and living separately without extending any help to him and the his mother. In the absence of these records, the third respondent cannot consider the claim of the petitioner. Therefore, the order passed by the third respondent is correct.

7. On considering the submissions of the parties and on perusal of the material on record, this Court is of the view that opportunity should be given to the petitioner to produce the



relevant documents before the respondents to satisfy the authority that the petitioner's brother who is an employee in the department has not rendered any financial assistance nor any help to the petitioner or the wife of the deceased and in such case, the case of the petitioner is liable for considering the claim for compassionate appointment. On perusal of the impugned order, it is seen that there is no reference with regard to the opportunity given to the petitioner to submit their explanation or for production of any documents to the third respondent. Therefore, the third respondent has passed an order without providing any opportunity to the petitioner and the impugned order passed by the third respondent is liable to be quashed. Therefore, there is a force on the contention of the petitioner and consequently the Writ Petition deserves to be allowed.

8. In view of the facts and the circumstances of the case, this court is intent to pass the following order:

i) the impugned order is liable to be quashed and the matter has been remitted back to consider afresh by the respondents;

ii) The writ petitioner shall submit additional particulars to the respondents within a period of two weeks from the date of receipt of a copy of this order.

iii) On receipt of such additional particulars from the petitioner, the respondents shall consider and pass orders on merits and in accordance with law as expeditiously as possible within 12 weeks from the date of receipt of a copy of this order.

9. The writ petition is allowed in the above lines. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

To

1. The Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai.

2. The Director of Public Libraries,
Anna Saalai,
Chennai - 600 002.

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



3. The District Library Officer,
District Central Library, Dindugul,
Dindugul District.

+1 CC to M/s.GP (SR-25490[F] dated 06/08/2021)

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RK (24.08.2021) 4P 5C