



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2021
CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P(MD)No.9687 of 2018
WMP (MD) No.8934 of 2018

J.Suresh Kumar

... Petitioner

Vs.

1.The Director of Social Welfare,
Social Welfare and Nutrition Meal Project Department,
Chepauk, Chennai - 600 005.

2.The Personal Assistant to District Collector,
(Nutrition Meal)
Office of District Collector,
Virudhunagar District.

3.The Block Development Officer,
Panchayat Union,
Narikudi, Thiruchuzhi Taluk,
Virudhunagar 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 relating to the impugned order of the 2nd respondent in Na.Ka.R3/5336/2017 dated 08.02.2018 quash the same and consequently direct the respondents herein to consider and appoint the petitioner on compassionate basis as per the recommendation of the 2nd respondent made to the 1st respondent in Na.Ka No.R3/335/2011 dated 08.08.2011 with seniority within a reasonable time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.K.Appadurai
For Respondents : Mr.A.K.Manickam
for State

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent in Na.Ka.R3/5336/2017 dated 08.02.2018 quash the same and consequently direct the respondents herein to consider and appoint the petitioner on compassionate basis as per the recommendation of the 2nd respondent made to the 1st respondent in Na.Ka No.R3/335/2011 dated 08.08.2011 with seniority within a reasonable time as may be fixed by this Hon'ble Court.



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

3. According to the petitioner, the petitioner's father was employed as Nutrition Meal Organizer in the Panchayat Union Primary School, Virudhunagar District and he died on 02.04.2010 while he was in service leaving behind his mother, his son i.e., the petitioner herein and his daughter. The petitioner applied for employment under compassionate ground to the third respondent with all necessary documents. Both the mother and the sister of the petitioner had given consent to the petitioner for providing employment to him. The third respondent vide his proceedings dated 13.07.2010 has forwarded the petitioner's application to the second respondent. The second respondent after due consideration of the petitioner's application with all necessary documents, forwarded the same to the first respondent vide proceedings dated 08.08.2011 with a proposal to consider the petitioner's application for compassionate appointment to the male legal heir by relaxing the Rules in this regard. However, the first respondent rejected the said application on the ground that when an eligible female member is available in the family, male member cannot be considered for compassionate appointment. According to the petitioner, his mother and sister have given their consent to the authority that they have no objection for providing compassionate appointment to the petitioner. Therefore, the reasons stated in the impugned order cannot be not sustained and hence, the impugned order is liable to be set aside.

4. It is seen from the impugned order dated 08.02.2018 passed by the second respondent, stating the reasons that when a female propitious is available, male should not be recommended and the proposals for relaxation of Rules were returned by the first respondent vide his proceedings dated 30.03.2017.

5. The learned counsel for the petitioner would submit that in similar circumstances, the Government has considered for providing compassionate appointment to the male members of the family as Noon Meal Organizers in the third respondent Panchayat. The similar relief also may be granted to the petitioner by granting relaxation for compassionate appointment as Noon Meal Organizer by taking note that the female member in the family has given no objection for the petitioner's appointment.

6. Therefore, in view of the above, there is no dispute that once the female member of the family has given consent to the petitioner for the compassionate appointment, the first respondent ought to consider the case of the petitioner for relaxation of the said Rules as done in respect of similarly placed persons. However, even though the petitioner has not challenged the proceedings of the 1st respondent dated 30.03.2017, the petitioner



foregoing reasons as mentioned in above paragraphs, this Court is of the view that both the impugned proceedings of 2nd respondent is not sustainable.

7. Therefore, the petitioner shall make a representation to the 1st respondent within a period of four weeks from the date of receipt of a copy of this order, seeking to re-consider the earlier order dated 30.03.2017 passed by first respondent and if any such representation being made by the petitioner, the same shall be considered by the 1st respondent by passing appropriate orders within a period of six weeks thereafter on merits and in accordance with law. Based on the order passed by the 1st respondent, the 2nd respondent is directed to communicate the order passed by the 1st respondent to the petitioner.

8. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// 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 Director of Social Welfare,
Social Welfare and Nutrition Meal Project Department,
Chepauk, Chennai - 600 005.
- 2.The Personal Assistant to District Collector,
(Nutrition Meal)
Office of District Collector,
Virudhunagar District.
- 3.The Block Development Officer,
Panchayat Union,
Narikudi, Thiruchuzhi Taluk,
Virudhunagar District.



+1 CC to M/s.K.APPADURAI, Advocate (SR-27706[F] dated 31/08/2021)

+1 CC to M/s.GP (SR-27876[F] dated 02/09/2021)

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31.08.2021

SR (CO)

KB (19.11.2021) 4P 6C