



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. (MD)No.5466 of 2017

and

W.M.P. (MD)No.4382 of 2017

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K.Raj

.... Petitioner

Vs.

1.The Director of School Education,
Directorate of School Education,
College Road, Nungambakam,
Chennai.

2.The Chief Educational Officer,
Thoothukudi District.

3.The District Educational Officer,
Kovilpatti, Thoothukudi District.

4.The Secretary,
Kammavar Girls Higher Secondary School,
Kalugumalai, Thoothukudi District.

5.V.Muniappan

... Respondents

Prayer : Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.3716/Aa2/2015, dated 12.01.2017 and Na.Ka.No.3716/Aa2/2015, dated 22.02.2017 passed by the third respondent and quash the same and consequently direct the respondents 1 to 4 to appoint the petitioner on compassionate ground as Watchman in the fourth respondent school.

For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mrs.S.Srimathy
Special Government Pleader
(for R1 to R3)

No Appearance (for R4)

Mr.V.Panneerselvam (for R5)



ORDER

The writ petition has been filed to quash the impugned orders passed by the third respondent in Na.Ka.No.3716/Aa2/2015, dated 12.01.2017 and Na.Ka.No.3716/Aa2/2015, dated 22.02.2017 and consequently, to direct the respondents 1 to 4 to appoint the petitioner on compassionate ground as Watchman in the fourth respondent school.

2.It is the case of the petitioner that the petitioner's father joined the fourth respondent school, which is a Government Aided School, as a Night Watchman in the year 1987 and he died in harness on 16.05.2009, while he was in service, leaving behind the petitioner, his mother and his two sisters. The petitioner studied upto 12th Standard. Due to sudden death of his father, the petitioner's family fell into financial distress and facing huge difficulty to maintain day-to-day life. Therefore, the petitioner sent an application to the fourth respondent on 04.06.2009 seeking grant of compassionate appointment. Immediately, the fourth respondent school also passed a resolution in favour of the petitioner and the same was forwarded to the educational authorities for further orders. However, the said proposal was not processed. Hence, the petitioner filed a writ petition before this Court in W.P.(MD)No.12828 of 2011 and the same was disposed of on 28.09.2016, directing the third respondent to consider the proposal in the light of staff fixation and to pass orders within a period of four weeks from the date of receipt of a copy of that order copy. Without considering the said order of this Court, the third respondent passed the impugned order, dated 12.01.2017 stating that the petitioner's case cannot be considered in view of G.O.(Ms)No.14, Personnel and Administrative Department, dated 07.02.2006 and further, the third respondent passed another impugned order in the month of February 2017 stating that the fourth respondent school appointed one Muniyappan as Night Watchman and the school authorities sent interview letter to the petitioner. Since the petitioner did not appear for the interview, on that sole ground, the petitioner's application was rejected. Hence, the petitioner filed the present petition with the above said prayer.

3.The learned counsel appearing for the petitioner would submit that though the school committee already recommended the petitioner's name for approval on 04.06.2009, the said proposal was also forwarded to the second respondent for his approval, however, the very same school committee appointed one Muniyappan. Hence, the petitioner had challenged the order of appointment in favour of Muniyappan and accordingly, he prayed for allowing this petition.



4.The learned Special Government Pleader appearing for the respondents 1 to 3 as well as the learned counsel for the fifth respondent raised no objection for allowing this petition.

5.Admittedly, on an earlier occasion, the petitioner made an application seeking compassionate appointment and the school committee has also passed a resolution in his favour and the same was forwarded to the educational authorities. It is an admitted fact that as against inaction, the petitioner filed a writ petition before this Court in W.P.(MD)No.12828 of 2011 and this Court disposed of the writ petition, directing the third respondent to consider the petitioner's representation. Thereafter, the school committee had conducted an interview and the interview letter was also sent to the petitioner. Since the petitioner did not appear for interview, the school committee appointed the fifth respondent. However, without challenging the appointment of the fifth respondent, the petitioner filed the present writ petition.

6. Further the petitioner did not place any material to show that the fourth respondent School aided school have a scheme for providing the compassionate appointment and without any scheme for providing compassionate appointment, the educational authorities are not bound to approve any appointment. The appointment of teaching and non-teaching staff has to be approved by the educational authorities and without any scheme, the compassionate appointment cannot be made. Hence, the prayer sought for in the writ petition cannot be granted. Further, there was a ban for recruitment of non-teaching staff in the aided school.

7. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

8.In view of the above, the writ petition stands dismissed, with liberty to the petitioner to work out his remedy in the



manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

/ /2021

Sub Assistant Registrar (CS)

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To

- 1.The Director of School Education,
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College Road, Nungambakam,
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- 2.The Chief Educational Officer,
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- 3.The District Educational Officer,
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