



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.10755 of 2016

and

W.M.P (md)No.8345 of 2016

P.Jegadeesan

... Petitioner

Vs.

1.The Joint Director (Personnel)
Directorate of School Education,
College Road,
Chennai.

2.The District Educational Officer,
Aruppukottai Education District,
Virudhunagar District.

3.The Headmaster,
Government High School,
Malaipatti
Virudhunagar District.

4.P.Vijayalakshmi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Pa.Mu.No.3528/A1/2013 dated 29.07.2015 and quash the same as illegal and consequently direct the respondents 1 and 2 to consider the petitioner for the post of compassionate appointment in the respondent department within a time frame that may be stipulated by this Court.

For Petitioner : Mr.R.R.Kannan

For R1 to R3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

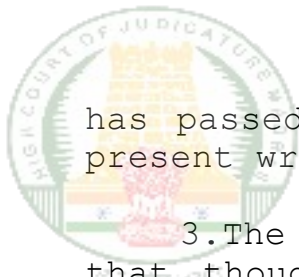
For R4 : No appearance



O R D E R

This writ petition is filed by the petitioner, to call for the records relating to the impugned order passed by the second respondent in Pa.Mu.No.3528/A1/2013, dated 29.07.2015 and quash the same as illegal and consequently, to direct the respondents 1 and 2 to consider the petitioner for compassionate appointment in the respondent Department.

2.The case of the petitioner is that his father was working as a Secondary Grade Teacher in the third respondent School. On 03.01.2001 the petitioner's father died, while he was on duty. The petitioner's father had two wives. After the demise of the petitioner's mother, his father married the fourth respondent herein. The petitioner is the only son through the first wife of the deceased. Out of the wedlock with the fourth respondent, the petitioner's father had two daughters viz., P.Manicka Meena and P.Karpagavalli. After the demise of the petitioner's father, dispute arose between the petitioner and the fourth respondent, with regard to the pensionary benefits and other family benefits. Therefore, they have entered into an agreement on 08.10.2001 among themselves that the fourth respondent will get all the service benefits of the petitioner's father and the petitioner will get the compassionate appointment. Pursuant to which, the fourth respondent has given "No objection Certificate" to the third respondent. Therefore, the petitioner has made an application on 26.07.2001 for appointment on compassionate ground. Though the petitioner has made several representations to the authority for getting compassionate appointment, no action has been taken. In such circumstances, after receiving all the benefits of the petitioner's father, the fourth respondent sent a letter to the second respondent on 15.10.2012 stating that the petitioner is working in one London Rubber Company, Virudhunagar and thereby earning Rs.25,000/- per month and his wife is also getting salary of Rs.10,000/- per month and therefore, the fourth respondent wanted the compassionate appointment to her daughters. On the basis of the letter given by the fourth respondent, the second respondent has passed the impugned order dated 19.07.2013, in Na.Ka.No.108/A1/2011. Aggrieved by the said order, the petitioner has filed a writ petition before this Court in W.P(MD).No.13936 of 2013. This Court, by order dated 05.02.2015, allowed the said writ petition on the ground that the second respondent therein has passed the impugned order only based on the allegation made by the fourth respondent therein, without ascertaining the veracity of such statement or by conducting any enquiry with regard to the employment in the private concern viz., London Rubber Company. Therefore, again the matter was remanded back to the second respondent therein. Even after the order of this Court, the second respondent, based on the documents filed by the fourth respondent,



has passed the present impugned order. Challenging the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that though the initial application made by petitioner well in time, which was rejected by the second respondent on the ground that there was a dispute between the petitioner and his stepmother viz., the fourth respondent and thereby earlier rejection order came to be passed. He further submitted that the petitioner has obtained information from the Inspector of Factories with regard to the existence of London Rubber Company, in which, the Factory Inspector issued a letter stating that there is no such company in Virudhunagar District. Thereafter, the petitioner also obtained a certificate from the Revenue Officials with regard to the non-employment. Without considering all those documents, the second respondent had rejected the petitioner's representation. Therefore, he prays for allowing the writ petition.

4.Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that after the demise of the petitioner's father, dispute arose between the petitioner and the fourth respondent, who is the second wife of the petitioner's father and thereafter, they have entered into an agreement on 08.10.2001. Pursuant to which, the petitioner has made an application, after 12 years of the death of his father, to the Chief Minister cell and not before the competent authority and the said application was forwarded to the second respondent. On receipt of such application, the same was rejected based on the allegation of the fourth respondent that the petitioner was working in a private company. Following the order of this Court, the petitioner's application was processed. For compliance of the order of this Court, London Rubber Company (T.T.K.Protective Devices Ltd.,) was examined as one of the witnesses and deposed that the petitioner was working in boiling unit of London Rubber Company and receiving salary and other benefits. Based on which, the present impugned order was passed. Further, the learned Additional Government Pleader submitted that as per G.O.(PT) No.998, Labour and Employment Department, dated 02.05.1981 as well as the judgment of the Full Bench of this Court, a consolidated scheme was framed in G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020, in which, the scheme specifically prescribed for providing compassionate appointment if any person of the deceased Government Servant's family is in regular employment in Government/Private enterprises, are not entitled for compassionate appointment.

5.In view of the above said G.O., the petitioner is not entitled for getting compassionate appointment. Hence, the prayer sought for in the present writ petition cannot be granted and the



same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1.Joint Director (Personnel)
Directorate of School Education,
College Road,
Chennai.

2.The District Educational Officer,
Aruppukottai Education District,
Virudhunagar District.

3.The Headmaster,
Government High School,
Malaipatti
Virudhunagar District.

+1 CC to SGP (SR-1644[F] dated 21/01/2021)

+1 CC to Mr.R.R.KANNAN, Advocate (SR-1452[F] dated 20/01/2021)

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KM (09.02.2021) 4P 6C