



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.18517 of 2016

and

W.M.P. (MD) .No.13409 of 2016

WEB COPY

G.Karthick

... Petitioner

Vs.

1.The Commissioner,
Most Backward Classes and Denotified Communities,
Chennai 600 035.

2.The District Revenue Officer (K.R.),
Madurai,
Madurai.

3.The Joint Director,
Kallar Reclamation,
Madurai,
Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in his proceedings in Sa.Mu.No.H7/60049/2011, dated 03.06.2015 and quash the same as illegal and direct the first respondent to provide compassionate appointment to the petitioner in any of the available post in the respondent Department as suitable as per the qualification of the petitioner.

For Petitioner	: Mr.Md.Ayub for M/s. Veera Associates
For Respondents	: Mr.A.Karthick Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order passed by the third respondent in his proceedings in Sa.Mu.No.H7/60049/2011, dated 03.06.2015 and to quash the same and



consequently, direct the first respondent to provide compassionate appointment to the petitioner.

2. The case of the petitioner is that the petitioner's father was working as Physical Education Teacher in the Government Middle School, Kalluthu, Madurai District and died in harness on 30.12.2004, leaving behind the petitioner, wife, and his mother as the legal heirs. Hence, the petitioner's mother has submitted an application for compassionate appointment before the third respondent, on 21.06.2007 and the third respondent, by his proceedings in Na.Ka.No.H7/61032/2007, dated 11.08.2009, recommended the first respondent to provide compassionate appointment to the petitioner. Thereafter, the first respondent, by his proceedings in Na.Ka.No.A2/12435/06, dated 04.11.2009, directed the Director of Institution of Education and Training (DIET) to give training in Child Psychology to the petitioner. Thereafter, the petitioner underwent Child Psychology training from 23.12.2009 to 22.01.2010. However, the petitioner's request was rejected on 10.03.2010, by the third respondent, on the ground that the legal heirs of the deceased employee, who had worked on consolidated basis, are not eligible to seek employment on compassionate ground. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner's mother made an application before the third respondent seeking compassionate appointment to her son. But, the said application was rejected on the ground that the petitioner's father worked on consolidated basis. He would further submit that in similar circumstances, the State Government has granted appointment to the legal heirs of the consolidated employee, as per G.O.(Ms).No.146, dated 27.08.1993. Hence, the rejection order is bad in law and he prayed for allowing this writ petition.

4. The learned Government Advocate appearing for the respondents would submit that the Government Order referred by the learned counsel for the petitioner is not applicable to the facts of the present case. The said G.O., was passed on 27.08.1993. However, in the present case, the petitioner's father died in the year 2004. Though the petitioner claimed that her mother made an application in the year 2007, for the post of Secondary Grade Teacher, the appointment of the Secondary Grade Teacher was made only through the Tamil Nadu Teachers Recruitment Board and it cannot be granted by way of compassionate appointment. Further, the learned Government Advocate would submit that the petitioner has made the application on 24.09.2014, after 10 years from the date of death of the petitioner's father and on the said ground, he prayed for dismissal of this writ petition.



5. Heard the learned counsel for the petitioner, learned Government Advocate for the respondents and perused the materials available on record.

6. On perusal of the records, it is seen that the petitioner's father was working as Physical Education Teacher on consolidated basis and died in the year 2004. Though the petitioner's mother made the application in the year 2007, the said application was not processed. Thereafter, the petitioner has made a representation before the third respondent on 24.09.2014. Admittedly, the compassionate ground appointments shall be made to the posts in 'C and D Groups' only and the Secondary Grade Teacher post cannot be granted and the said post is recruited only through the Tamil Nadu Teachers Recruitment Board. Further, the petitioner's father died in the year 2004 and the petitioner has made the application after a period of 10 years from the date of death of the petitioner's father. The recent G.O.(Ms.).No.18, dated 23.01.2020, makes it clear that the persons, who are under Temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularised, are not eligible for consideration under compassionate ground appointment. In the present case, the petitioner's father is a consolidated employee. Hence, there is no merit in this writ petition and it deserves dismissal and accordingly, the Writ Petition is dismissed. However, in the circumstances of the case, there will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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 Commissioner,
Most Backward Classes and Denotified Communities,
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2.The District Revenue Officer (K.R.),
Madurai,
Madurai.

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Madurai,
Madurai District.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-3464[F] dated
05/02/2021)

+1 CC to SGP (SR-3527[F] dated 05/02/2021)

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KM (15.03.2021) 4P 6C