



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.18289 of 2017

and

W.M.P. (MD) .No.14741 of 2017

K.Pandiyan

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar (Revenue),
O/o. The Tahsildar,
Thiruchuli,
Virudhunagar District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings in O.Mu.A6/2260/2017, dated 26.05.2017 and quash the same as illegal and consequently to appoint the petitioner on compassionate ground commensurate with the qualification of the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohammed Imran
for M/s. Ajmal Associates
For Respondents : Mr.M.Muthugeethaiyan
Special Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent in his proceedings in O.Mu.A6/2260/2017, dated 26.05.2017 and to quash the same and consequently direct the second respondent to appoint the petitioner on compassionate ground.

2. The case of the petitioner is that the petitioner's wife was appointed as Village Assistant on 18.01.2016 and she joined duty on 19.01.2016, under physically handicapped category. While so, her wife died on 24.11.2016, due to kidney failure. Hence, the petitioner has made a representation to the second respondent on 24.04.2017, for compassionate appointment. However, the said representation was rejected by the second respondent, on 26.05.2017, on the ground that the petitioner's wife has not even completed one



year of service. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the order impugned in the writ petition is incorrect, as the petitioner's wife was appointed as Village Assistant in the regular establishment, after conducting interview. Though the petitioner's wife was under probation, the said appointment is not construed as a temporary appointment, consolidated pay, daily wages or contract appointment and this is the regular appointment. Hence, he prayed for allowing this writ petition.

4. The learned Special Government Pleader appearing for the respondents would submit that though the probation is not included in the G.O.(Ms.)No.18, dated 23.01.2020, the order impugned in the writ petition may be set aside and remanded back for fresh consideration, as per the Scheme.

5. This Court has perused the impugned order, dated 26.05.2017. A perusal of the impugned order reveals that the second respondent has rejected the petitioner's representation on the ground that the petitioner's wife not even completed one year of service, which is unsustainable one. The G.O.(Ms.).No.18, dated 23.01.2020, makes it clear that the persons, who are under temporary employments, consolidated pay, daily wages, contract appointments and whose services are not regularised. However, in the present case, the petitioner's wife was appointed as Village Assistant in the regular appointment and before completing the probationary period, she passed away. The legal heirs of the probationer also entitled for compassionate appointment, unless he satisfied the other parameters of the Scheme, including the financial hardship and indigent circumstances. Hence, the impugned order dated 26.05.2017, passed by the second respondent is set aside and the matter is remanded back to the second respondent for fresh consideration and the second respondent, after giving opportunity to the petitioner, to pass orders, in accordance with the Scheme, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar (Revenue),
O/o. The Tahsildar,
Thiruchuli,
Virudhunagar District.

+1 CC to M/s.GP (SR-3056[F] dated 03/02/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-2983[F] dated
03/02/2021)

W.P. (MD) No.18289 of 2017
02.02.2021

SSS(CO)
TR(11.03.2021) 3P 5C