



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.19067 of 2017

WEB COPY

D.Saravanan

... Petitioner

Vs.

1.The Director of School Education,
College Road, Nungambakkam,
Chennai-6.

2.The Chief Educational Officer,
O/o the Chief Educational Officer,
Ramanathapuram-630 501,
Ramanathapuram District.

3.The District Educational Officer,
O/o the District Educational Officer,
Paramakudi-623 707.

4.The Secretary,
Kshatriya Hindu Nadar Higher Secondary School,
Perunali-623 115,
Kamuthi Taluk,
Ramanathapuram District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned rejection order dated 27.07.2017, on the file of the fourth respondent and quash the same as illegal and consequently, directing the respondents to appoint the petitioner for the post of Junior Assistant or any other post on compassionate ground in the fourth respondent school or any other school within the stipulated time as fixed by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
for R.1 to R.3

: Mr.N.Dilip Kumar
for R.4

* * * * *

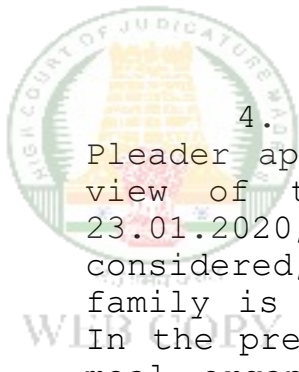


ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned rejection order, dated 27.07.2017, on the file of the fourth respondent and quash the same as illegal and consequently, direct the respondents to appoint the petitioner for the post of Junior Assistant or any other post on compassionate ground in the fourth respondent school or any other school within the stipulated time as fixed by this Court.

2. The case of the petitioner is that his father joined as a Junior Assistant in the fourth respondent school in the year 1972. However, he passed away while he was in service on 13.11.2010 due to ill health, leaving his mother, his elder sister, younger brother and himself as legal heirs. Thereafter, the petitioner made an application seeking appointment on compassionate ground, on 22.10.2011 to the District Educational Officer through the fourth respondent. However, the District Educational Officer returned the said application and directed the petitioner to approach the fourth respondent, who is a competent authority for making compassionate appointment. Thereafter, the petitioner made an application on 18.08.2015 to the fourth respondent. However, no order was passed by the fourth respondent. Hence, he filed a writ petition before this Court in W.P.(MD)No.7444 of 2017. This Court, by its order dated 21.04.2017, issued a direction to the respondents therein to dispose of the representations of the petitioner, dated 22.10.2011, 18.08.2015 and 05.10.2016 within a period of two weeks. In compliance to the order of this Court, the present impugned order was passed, on the ground that the petitioner has not filed the application within a period of three years from the date of the death of his father and further in the very same school, the petitioner's mother is working as noon-meal organiser. Challenging the said order of rejection, the petitioner has approached this Court by filing this writ petition.

3. Learned Counsel appearing for the petitioner would submit that the petitioner's father died on 13.11.2010, while he was in service as Junior Assistant in the fourth respondent School. Immediately thereafter, the petitioner made an application on 22.10.2011 seeking compassionate appointment to the third respondent through the fourth respondent and thereafter, finally the petitioner sent a representation to the respondents along with all the necessary documents seeking employment on compassionate ground, however, the fourth respondent, vide order dated 27.07.2017, passed the impugned order, by rejecting the claim of the petitioner, without considering the indigent circumstances of the petitioner's family and hence, he prays for interference of this Court.



4. Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that in view of the latest Government Order in G.O.(Ms) No.18, dated 23.01.2020, the compassionate ground appointment will not be considered, in case any person of the deceased Government Servant's family is in regular employment in Government/Private Enterprises. In the present case, the petitioner's mother is working as a noon-meal organiser in the very same school and hence, he prays for dismissal of the writ petition.

5. Heard the learned Counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned Counsel appearing for the fourth respondent and perused the materials placed on record.

6. 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.

7. In the case on hand, the petitioner's father was working in the fourth respondent School as Junior Assistant and he died on 13.11.2010. Thereafter, the petitioner made an application requesting to provide an employment on compassionate ground. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the families of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints. As per the latest Government Order, in G.O.(Ms) No.18, dated 23.01.2020, the compassionate ground appointment will not be considered, in case any person of the deceased Government Servant's family is in regular employment in Government/Private Enterprises. In the present case, the petitioner's mother is working as a noon-meal organiser in the very same school. Therefore there is no indigent circumstances arise due to the death of his father. Hence, this Court is not inclined to interfere with the order of the fourth respondent, in rejecting the petitioner's application seeking compassionate appointment.



8. For the reasons aforesaid, this Court is not inclined to interfere with the order passed by the fourth respondent, as no case has been made out by the petitioner to substantiate his grievance. Accordingly, this writ petition, being devoid of merits, is dismissed. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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 School Education,
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Chennai-6.

2.The Chief Educational Officer,
O/o the Chief Educational Officer,
Ramanathapuram-630 501,
Ramanathapuram District.

3.The District Educational Officer,
O/o the District Educational Officer,
Paramakudi-623 707.

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-1686[F] dated 21/01/2021)

+1 CC to SPL GP (SR-1656[F] dated 21/01/2021)

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-1522[F] dated 21/01/2021)

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VB (03.02.2021) 4P 7C