



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

Writ Petition (MD)No.19214 of 2017

and

W.M.P. (MD) .No.15560 of 2017

M.Rajasekar

... Petitioner

Vs.

1.The Director of Medical Education (DME),
Kilpauk,
Chennai 600 010.

2.The Dean,
Thanjavur Medical College Hospital,
Thanjavur.

... 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 relating to the impugned order in Na.Ka.No.51300/Ni2/4/2014, dated 31.03.2016, passed by the first respondent and to quash the same as illegal and consequently direct the first respondent to give compassionate appointment to the petitioner, on the basis of the Government Seniority List No.183(A).

For Petitioner

: Mr.G.Karnan

For Respondents

: Mr.D.Muruganandam

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent in Na.Ka.No.51300/Ni2/4/2014, dated 31.03.2016 and to quash the same as illegal and consequently direct the first respondent to give compassionate appointment to the petitioner, on the basis of the Government Seniority List No.183(A).

2. The case of the petitioner is that his father Murugesan worked under the second respondent Medical College Hospital and died in harness on 09.12.2001, leaving behind the petitioner's mother, petitioner and the petitioner's brother. Immediately, the petitioner's mother made an application on 24.06.2002, seeking compassionate appointment to his brother Murugesan. While pending consideration, the petitioner's brother Murugsan got married and settled with his in-laws house and the mother of the petitioner also died on 12.03.2005. Thereafter, the petitioner made an application on 09.05.2005 seeking compassionate appointment and his brother



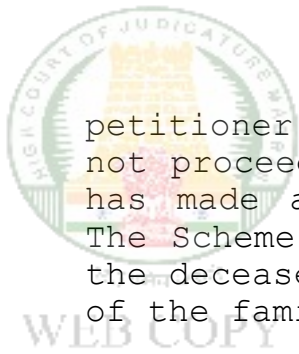
also given consent for giving compassionate appointment to the petitioner. On 14.08.2014, the second respondent directed the petitioner to produce all the original certificates and other documents. Finally, on 14.03.2015, the second respondent has directed the petitioner to produce the School Certificate and other certificate from the concerned Tahsildar. Subsequently, the first respondent, in his proceedings dated 01.06.2015, stated that the name of the petitioner was entered in the seniority list. However, the first respondent has passed the impugned order on 31.03.2016, rejecting the petitioner's request for compassionate appointment on the ground that the petitioner has submitted the application after three years from the date of death of the petitioner's father. 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 for compassionate appointment, immediately after the death of his father. However, she is not inclined to proceed with the application, in view of the petitioner's brother marriage. Thereafter, the petitioner's mother passed away. Hence, the petitioner has made an application seeking compassionate appointment to him and his brother also given consent for giving compassionate appointment to the petitioner. However, without considering the same, the first respondent has rejected the same on the ground of delay, which is unsustainable one and there is no delay on the part of the petitioner. Hence, he prays for allowing this writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that in G.O.(Ms.)No.225, Labour Department, dated 15.02.1972, the Government have formulated the Scheme for providing employment to the dependent of Government servant, who died in harness, leaving his family in indigent circumstances. Subsequently, in G.O.(Ms.)No.202, Labour and Employment Department, dated 08.10.2007, the Government have framed the Rules for the appointment on compassionate ground. He would further submit that the earlier application submitted by the petitioner's mother for his brother was not proceeded and thereafter, the present application is filed, which is contrary to the said Scheme and it cannot be entertained. Further, the petitioner has not established the indigent circumstances in the family. Therefore, he prays for dismissal of this writ petition.

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

6. The facts in the present case are not in dispute. Admittedly, the petitioner's father died in the year 2001 and initially the petitioner's mother made an application for the



petitioner's brother in the year 2002 and the said application was not proceeded. Further, after lapse of three years, the petitioner has made an application seeking compassionate appointment to him. The Scheme provides only to tide over the financial crisis faced by the deceased family. In the present case, the indigent circumstances of the family was not established before the authority

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. 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 the light of the above, there is no merit in this writ petition. Accordingly, this 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 (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Medical Education (DME),
Kilpauk,
Chennai 600 010.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Dean,
Thanjavur Medical College Hospital,
Thanjavur.

+1 CC to M/s.GP (SR-1651[F] dated 21/01/2021)

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