



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI
W.P. (MD)No.21968 of 2017

G.Gokulakannan

... Petitioner

Vs.

1.The Director of Agriculture,
Directorate of Agriculture,
Ezhilagam,
Chepauk,
Chennai-600 005.

2.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandanam,
Chennai-600 035.

3.The Executive Engineer,
Agricultural Engineering Department,
No.15, Krishna Nagar,
Manojipatty Road,
Thanjavur-613 004.

4.The Assistant Executive Engineer,
Agricultural Engineering Department,
Marketing Committed Complex,
Palayam Road,
Pattukottai-614 601.

... 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 on the file of the fourth respondent in connection to the impugned order of rejection passed by him vide his proceedings in Letter NO.A/4084/2016 dated 08.09.2017 and quash the same as illegal and arbitrary and consequently, direct the respondents to appoint the petitioner in any post based on his educational qualification under Compassionate ground in the light of the order passed by this Court in W.P.No.28402/11 dated 04.10.2016 within the time limit that may be stipulated by this Court.



For Petitioner : Mr.G.Thalaimutharau

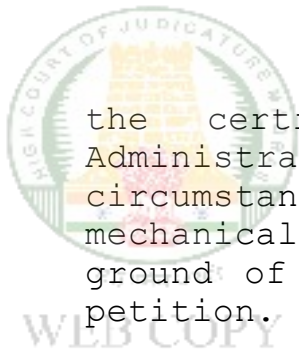
For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition is filed by the petitioner, calling for the records on the file of the fourth respondent in connection to the impugned order of rejection passed by him vide his proceedings in Letter NO.A/4084/2016 dated 08.09.2017 and quash the same as illegal and arbitrary and consequently, direct the respondents to appoint the petitioner in any post based on his educational qualification under Compassionate ground in the light of the order passed by this Court in W.P.No.28402/11 dated 04.10.2016 within the time limit that may be stipulated by this Court.

2.The case of the petitioner is that his father viz., N.Ganesan, was working as Assistant Soil Conservation Officer, died in harness on 14.09.2001, leaving behind the petitioner, his mother and his sister as legal heirs. At the time of death of the petitioner's father, he was four years old and his sister was five years old and his family was in penurious condition. Therefore, the petitioner's mother sent a representation to the third and fourth respondents within the limited period of three years and the same was not considered by the third and fourth respondents. Due to cruelty of fate, the petitioner's mother has also passed away on 19.06.2005 and therefore, the petitioner and his sister were brought under the care and custody of his paternal grandfather. After attaining majority, the petitioner has sent a representation dated 13.11.2013 to the third and fourth respondents for compassionate appointment. Since the petitioner's sister got married in the year 2020, the petitioner is under the care and custody of his grandfather, who is 85 years old. In the mean time, the petitioner's representation was rejected by the fourth respondent on 08.09.2017 on the ground of delay. Challenging the said rejection order, the present wit petition is filed.

3.The learned counsel appearing for the petitioner submitted that at the time of death of the petitioner's father and mother, the petitioner and his sister are minors. The petitioner's sister has received family pension till her majority. In the mean time, the petitioner has made an application in the year 2013 and that application was not processed by stating that the petitioner was a minor. During the pendency of the said application, the petitioner has completed his diploma and hence, he seeks any one of the Government post on Compassionate ground. Further the learned counsel submitted that the petitioner was not having any movable or immovable property, to that effect, the petitioner has produced



the certificate, which has been issued by the Village Administrative Officer. Without considering the indigent circumstances faced by the petitioner, the fourth respondent has mechanically rejected the petitioner's representation on the ground of delay. Hence, he prays for allowing the present writ petition.

4.Per contra, the learned Special Government Pleader appearing for the respondents submitted that though the petitioner has made an application immediately after the death of his father, no proof was annexed as if the petitioner had made an application. At the time of death of the petitioner's father and mother, the petitioner and his sister were minors and the petitioner's sister had received family pension, till her majority. In support of the said family pension, the petitioner has completed his diploma and his sister got married and therefore, there is no indigent circumstances faced by the petitioner's family. Further, any application for compassionate appointment has to be made within a period of three years from the date of death of the Government Servant. In the present case, though the petitioner's father died in the year 2001, on attaining majority, the petitioner has made an application in the year 2015. Therefore, the petitioner's claim cannot be considered and prays for dismissal of the writ petition.

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

5.Considering the facts and circumstances of the case, the facts in the present case are not in dispute. Admittedly, the petitioner's father died in the year 2001 and the petitioner attained majority in the year 2015. It is also not in dispute that the petitioner's sister received family pension till her majority and thereafter, the petitioner has made an application for compassionate appointment and the same was rejected on the ground of delay. Moreover, the purpose of providing employment on compassionate grounds is to tide over the financial crisis of the deceased family and there must be a proof as to the deceased family is in a penurious condition. In the present case, the petitioner has not produced any document to prove that his family is in a penurious condition.

6. In this regard, the Division Bench of this Court also, in ***W.A.No.3899/2019 [P.Poongodi vs. The Chairman]***, held as under:

"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 light of the above decision, the petitioner has not submitted his application within a period of three years from the date of death of his father and he has also not produced any document to prove that his family is in a penurious condition. The present writ petition is wholly unsustainable in law. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

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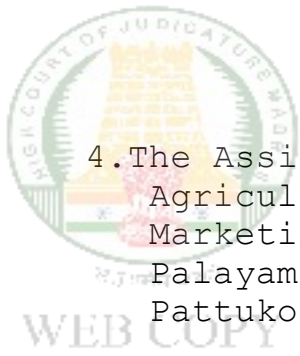
Sub Assistant Registrar (CS)

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To

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+1 CC to Mr.G.THALAIMUTHARASU, Advocate (SR-3419[F] dated
05/02/2021)

+1 CC to SGP (SR-3532[F] dated 05/02/2021)

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