



W.P.No.33448 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.33448 of 2016

P.Natarajan

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Panchayat Raj and Rural
Development Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector cum
Inspector of Panchayats,
Erode District, Erode.
- 3.The Assistant Director of Panchayats,
Erode District, Erode.
- 4.The Block Development Officer/Commissioner,
Ammapettai Panchayat Union,
Ammapettai, Bhavani Taluk,
Erode District.
- 5.The President,
Singampettai Panchayat,
Ammapettai Panchayat Union,
Singampettai, Bhavani Taluk,
Erode District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned orders passed by the 2nd respondent in Na.Ka.No.9479/2012/PaE3 dated 29.06.2012 and Na.Ka.No.832/2016/PaE3 dated 10.08.2016, quash the same and consequently direct the respondents to appoint the petitioner under compassionate ground in the respondent department in order to protect the petitioner family livelihood forthwith.

For Petitioner	: Mr.M.R.Jothimanian
For R1 to R3 & R5	: Mr.K.H.Ravikumar, Government Advocate
For R4	: Mr.R.S.Selvam for Mr.N.Srinivasan

ORDER

The petitioner's father V.Palanisamy, while serving as Village Panchayat Secretary, died on 18.11.2009. The petitioner herein had made an application on 15.03.2010 seeking for appointment on compassionate grounds. The second respondent herein, through the impugned order dated 10.08.2016, had rejected the petitioner's subsequent application seeking for compassionate appointment by stating that since the employee had expired



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prior to passing of G.O.Ms.No.102, Rural Development and Panchayat Raj Department, dated 13.07.2015, he is not entitled for compassionate appointment. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner's father was appointed through G.O.Ms.No.175, dated 05.12.2006 on regular time scale basis and therefore, the scheme prevailing prior to G.O.Ms.No.102 is applicable to the petitioner. Consequently, he would submit that the date of consideration of the petitioner's application seeking for compassionate appointment is only on 10.08.2016 and the information given on 29.06.2012 by the second respondent herein is not a consideration.

3. Per contra, the learned counsel appearing for the fourth respondent submitted that the petitioner's request for compassionate appointment was already considered on 29.06.2012 itself, which was prior to G.O.Ms.No.102 and therefore, there is no infirmity in the impugned order. In support of such a submission, the learned counsel placed reliance on a decision of the Hon'ble Division Bench of this Court in the case of ***V.Swathi Vs. The Principal Secretary to Government, Rural Development and Panchayat Raj***



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Department passed in ***W.A.No.2929 of 2019, dated 04.09.2019***, as well as the decision of a learned single Judge in the case of ***M.Karthick Vs. The State of Tamil Nadu, Rural Development and Panchayat Raj Department*** passed in ***W.P.No.26222 of 2015, dated 17.08.2022***.

4. It is not in dispute that prior to G.O.Ms.No.102, dated 13.07.2015, there was no scheme for compassionate appointment to the legal heirs of the Panchayat Secretaries working in the Village Panchayat. It is in the absence of such a specific scheme for the benefit of Village Secretaries, who died in harness, the Government have considered the proposal of the Director of Rural Development and Panchayat Raj and had ordered for sanction of compassionate appointment to the legal heirs of the Panchayat Secretaries, through G.O.Ms.No.102, dated 13.07.2015.

5. The Hon'ble Division Bench, in the case of *V.Swathi (supra)*, had dealt with the applicability of G.O.Ms.No.102 in a detailed manner and held that this Government Order would only have a prospective effect. In line with the decision of the Hon'ble Division Bench, the learned single Judge, in *M.Karthick's case (supra)*, had also held that the benefit of the scheme under



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G.O.Ms.No.102 will only have a prospective effect and in the event of extending the benefit by the Courts, retrospectively, the same will result in opening of Pandora's Box and many such similarly placed persons will also claim appointment on compassionate grounds. Thus, this Court is of the affirmed view that G.O.Ms.No.102, dated 13.07.2015 will only have a prospective effect, as held by the Hon'ble Division Bench and therefore, the claim made by the legal heirs of a deceased Village Panchayat Secretary cannot be sustained.

6. Insofar as the ground raised by the learned counsel for the petitioner is concerned that the petitioner's father was regularly appointed in a time scale of pay and therefore, he is deemed to be a Government servant and the scheme applicable to the Government servants for compassionate appointment would apply in this case also, the same cannot be sustained for the simple reason that the scheme of compassionate appointment, which was applicable to the Government servants, was not extended to the Panchayat Secretaries working in the Village Panchayats. It is in view of absence of such a scheme that the Director of Rural Development and Panchayat Raj had proposed to the Government seeking for extension of compassionate



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appointment scheme to the legal heirs of the Panchayat Secretaries. Thus, G.O.Ms.No.102 came to be passed extending the benefit of compassionate appointments to the legal heirs of the Panchayat Secretaries. In the absence of any specific scheme prior to G.O.Ms.No.102 and also that the Government had not extended any benefit to the legal heirs of the Panchayat Secretaries, the ground raised by the learned counsel for the petitioner in this regard cannot be sustained.

7. The second ground raised by the learned counsel for the petitioner is that the petitioner had originally made an application on 15.03.2010 and the same was considered only on 10.08.2016 through the impugned order. However, on a perusal of the order passed by the second respondent dated 29.06.2012, it is seen that the petitioner herein had made the original application on 15.03.2010 and thereafter, when he had sent a representation to the Chief Minister's Cell on 25.06.2012, which came to be forwarded to the District Collector, Erode, the third respondent herein had informed the petitioner, through the letter dated 29.06.2012, that since there was no scheme for compassionate appointment to the legal heirs of the Panchayat Secretaries, his claim for compassionate appointment is not feasible. This



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information supplied is a consideration of the petitioner's request, since the

District Collector has expressed his views with regard to the absence of any scheme for compassionate appointment and the consequential inability to consider the petitioner's request. Admittedly, the impugned order passed by the second respondent dated 10.08.2016 is only on the basis of a subsequent representation given by the petitioner herein. Hence, the date of consideration on 29.06.2012 is prior to G.O.Ms.No.102, dated 13.07.2015 and therefore, this ground raised by the petitioner also cannot be sustained.

8. Incidentally, the Hon'ble Supreme Court, in the case of ***N.C.Santhosh Vs. State of Karnataka and others*** reported in ***(2020) 7 SCC 617***, has held that the norms prevailing on the date of consideration of the application alone should be the basis for consideration of compassionate appointment. The relevant portion of the order reads as follows:-

"19. Applying the law governing compassionate appointment culled out from the abovesited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependant of a



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government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee."

9. Thus, both the grounds raised by the learned counsel for the petitioner does not deserve consideration.

10. In view of the fact that the consideration of the petitioner's application was prior to G.O.Ms.No.102, dated 13.07.2015 when there was no scheme prevailing and since G.O.Ms.No.102 has a prospective effect, I do not find any merits in the present writ petition. Accordingly, the writ petition stands dismissed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
hvk



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Development Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector cum
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M.S.RAMESH,J.

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