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W.P.No.26224 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26224 of 2017
and
W.M.P.No.27875 of 2017

- 1.Anandaraj
- 2.K.Deivasigamani
- 3.Senthil
- 4.M.Elumalai
- 5.K.Sekar
- 6.Ramu
- 7.Paulraj
- 8.D.Suresh
- 9.V.Sargunam
- 10.J.Manivannan
- 11.K.Jeyanthi
- 12.A.Muthumani Maran
- 13.Kamatchi
- 14.P.Latha
- 15.M.Kalaiivanan
- 16.L.Kotteswari
- 17.S.Annadurai
- 18.M.Pandurangan
- 19.K.Subramani
- 20.A.Krishnamurthi
- 21.C.Sagadevan
- 22.M.Ravikumar
- 23.J.Elumalai
- 24.E.Venkatraman
- 25.A.Munivel
- 26.C.Arumugam
- 27.M.Ganapaty



28.S.Silambarasi
29.M.Elumalai
30.Umayavathy
31.A.Murthy

... Petitioners

Vs.

- 1.The Chairman,
Food Corporation of India,
No.16-20, Barakhamba Lane,
New Delhi – 110 001.
India No. 011-4357462.
- 2.The Executive Director (South)
Food Corporation of India,
Zonal Office,
No.2, Haddows Road,
Nungambakkam, Chennai – 600 006.
- 3.The General Manager,
Food Corporation of India,
Regional Office,
Chetpet Godown,
No.8, Sathyamorthy Salai,
Chetpet, Chennai – 600 031.
- 4.The Area Manager,
Food Corporation of India,
District Office,
No.8, Sathyamoorthy Salai,
Chetpet, Chennai – 600 031.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the respondents for rejecting the appointment of the petitioners in pursuant to the impugned order Ref. PP 07/55/R/2013-14 Vol. VII dated 09.02.2016, No.37(1) Grievance-Portal/TN



2014 dated 20.03.2017 served in the name of Gnanasekaran based on the petitioner's representation dated 09.08.2017 and consequently calling for application to fill up the vacancies for watchmen post through Paper publication dated 03.07.2017 and 17.09.2017 is null and void and direct the respondents to appoint the petitioners on compassionate ground appointment as per the paper publication dated 03.07.2017 and 17.07.2017 for the vacancies to be filled there.

For Petitioners : Mr.S.Angamuthu

For Respondents : Mr.S.Vijayakumar

ORDER

The writ of declaration has been instituted to declare the order of rejection passed by the respondents in proceedings dated 09.02.2016 and 20.03.2017 as null and void.

2. There are 31 writ petitioners, who have filed the writ petition seeking appointment on compassionate ground in the Food Corporation of India. Their respective father and mother died on various dates right from the year 1981 onwards. In many cases, several decades passed and in some cases more than one or two decades passed. The fact remains that some of the writ petitioners are over aged and other become ineligible for



appointment on compassionate ground. The order of rejection indicates that the cases of the writ petitioners were not considered on the ground that no vacancy was available during the relevant point of time.

3. The learned counsel for the petitioners made a submission that the Food Corporation of India subsequently issued the recruitment notification for selection and appointment.

4. This Court is of the considered opinion that compassionate appointments are granted based on the scheme and therefore, the regular recruitment through open competitive process cannot be a ground to claim appointment on compassionate grounds. Only limited number of posts are earmarked for compassionate appointments. The regular appointments are to be made by following the procedures as contemplated under the Recruitment Rules in force. Thus, the non-availability of the vacancy for compassionate appointment cannot be compared with the regular recruitment made through open competitive process. If at all the petitioners are eligible they have to participate in the open competitive process. Contrarily, they cannot be made an attempt to convert the direct recruitment to that of compassionate appointment.



5. The writ petitioners are the legal heirs of the deceased employees.

WEB COPY In most of the cases, the petitioners are over aged and in few cases they became ineligible. That apart, several years lapsed in many cases. The reasons for non-consideration of the cases of the writ petitioners are that the vacancies during the relevant point of time were not available to provide appointment on compassionate grounds.

6. Compassionate appointment is not an absolute right. Thus, the Court cannot issue direction to appoint the person on compassionate grounds. Only if the application is rejected in violation of the terms and condition of the scheme, then alone the Court can interfere, but not otherwise. In the present case, the order of rejection reveals that there were no vacancies during the relevant point of time to provide appointment on compassionate grounds. When few posts alone are earmarked for providing compassionate appointment, the decision of the respondents cannot be found fault with.

7. The scheme being an exemption and cannot be claimed as a matter of right. Thus, this Court do not find any infirmity in respect of the reasons



stated in the impugned order. Further, the appointment is independent cause and filing a common writ petition itself is not entertainable. Since it was already entertained, this Court is of an opinion that the ground need not be considered. However, the fact remains that many of the writ petitioners are over aged and many years lapsed from the date of death of the deceased employees. Thus, at this length of time the relief as such sought for to provide appointment on compassionate ground cannot be considered. If at all any grievances exists for the petitioners, they are at liberty to approach the competent authorities.

8. With these observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10.10.2022

Jeni

Index : Yes

Speaking order



To

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S.M.SUBRAMANIAM, J.

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