



W.P.(MD) No.5807 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5807 of 2020

R.Azhagu Murugan

... Petitioner

-VS-

1.The Director,
Directorate of Collegiate Education,
DPI Compound
College Road,
Chennai.

2.The Principal
Ma Mannar College (Autonomous)
Pudukottai 622 001.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.no.48666/B2/2019 dated 30.01.2020 and quash the same and consequently direct the respondents to appoint the petitioner in any suitable job on the basis of the petitioner application dated 16.12.2019 within the time frame stipulated by this Court.



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For Petitioner : Mr.V.Selva
For Respondents : Mr.T.Amjad Khan for R1
Government Advocate

ORDER

Challenging the impugned order of the respondent dated 16.12.2019 and for a consequential direction to the respondents to appoint the petitioner in any suitable job on the basis of his application dated 16.12.2019, the present writ petition has been filed.

2.The case of the petitioner is that the petitioner's father Rajendran was working as Sweeper in the 2nd respondent College from 18.12.1996. While so, he died in harness on 20.12.2014 leaving behind his wife Packialakshmi, the petitioner and other two sons as his legal heirs. Hence, seeking compassionate appointment, the petitioner submitted an application to the 2nd respondent along with necessary documents. However, the 2nd respondent assured the petitioner that the application would be forwarded to the concerned authorities. Since there was no reply, during December '2019, the petitioner approached the 2nd respondent. Since



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the earlier application was not forwarded to the concerned authorities, on the advice of the 2nd respondent, the petitioner again sent a fresh application on 16.12.2019. Since the said application was rejected vide impugned order dated 30.01.2020, the petitioner is before this Court challenging the said impugned order.

3.The learned counsel for the petitioner would submit that the petitioner's father died in the year 2014. The application of the petitioner for compassionate appointment was submitted within three years, ie., within the prescribed period, of the death of the petitioner's father and therefore, it cannot be stated that the application was submitted beyond the prescribed period of three years. Since the earlier application was not forwarded to the authorities, as per the direction of the second respondent, the petitioner again sent an application and hence, the petitioner's application was in time and hence, the impugned order is not sustainable and a direction may be issued to the authorities to consider the case of the petitioner.

4. Per contra, learned Special Government Pleader appearing for



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the respondents, adverting to the counter filed, submitted that the petition has not been submitted as per G.O. Ms. No.120 (Labour & Employment) dated 20.6.1995 within the prescribed period and in the prescribed format. Therefore, it is prayed that no interference is called for with the impugned order.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6.The issue with regard to compassionate appointment has been decided by the Full Bench of this Court in W.P.(MD) Nos.7016 of 2011 etc., batch dated 11.03.2020. In a reference made to the Full Bench, the Full Bench has held as follows:

“In view of the above, the reference is answered as under:-

a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer.



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Any deviation from the scheme is not permissible.

b) In view of the above the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly.”

7. As per the said decision, it is clear that the appointment on compassionate basis should be strictly be in accordance with the Government Orders/the Scheme framed for the said purpose by the employer. In the case on hand, it is not in dispute that after the death of the petitioner's father, the petitioner, who is one of the legal heir, submitted an application for compassionate appointment, which was rejected on the ground that the application has been submitted after a lapse of five years and as per the above said G.O., the application ought to have been made



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within the prescribed period of three years and in the prescribed format.

Since as per the decision of the Full Bench of this Court (supra), the rejection made is in line with G.O.Ms.No.120 and hence, no interference is warranted to the impugned order. Accordingly, this writ petition is dismissed. No costs.

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Index : Yes/No

Internet : Yes

RR



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- To
- 1.The Principal Secretary to Government
Department of School Education,
Secretariat, Chennai
 - 2.The Director,
School Education Department
DPI Campus, college Road,
Chennai 600 006.
 - 3.The Teachers Recruitment Board
rep. By the Member Secretary
Chennai.
 - 4.The Chief Educational Officer,
District Educational Office,
Alagar Kovil Road
Tallakulam
Madurai.



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M.DHANDAPANI, J.

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