



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P. (MD) No.22547 of 2021

Mr.C.Theeneswaran

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Public Works Department,
Fort St.George, Chennai - 600 009.

2.The Engineer-in-Chief (General),
Public Works Department,
Chepauk, Chennai - 5.

3.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Hydrologic Division,
Trichy - 20.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner on compassionate grounds in the 3rd respondent department or in any other suitable post within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.D.Sadiq Raja
Addl. Government Pleader

ORDER

The learned counsel for the petitioner, on instructions, made a submission that the petitioner has chosen to withdraw the writ petition.

2. However, the learned Additional Government Pleader raised an objection that the withdrawal would provide a fresh cause of action without any basis. There is a possibility of pursuing the matter in violation of the rules and therefore, the learned Additional Government Pleader made a request that the rights of the petitioner is to be considered in the writ petition. It is further contended that the father of the writ petitioner died on 02.03.2021 and the petitioner submitted an application seeking compassionate



appointment on 04.05.2009. The father of the writ petitioner was a temporary employee (NMR) and his services were not regularized. Therefore, by permitting the writ petitioner to withdraw the writ petition would provide further cause of action, which would result in multiplicity of proceedings.

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3. This Court is of the considered opinion that when the rights are not established then this Court has to consider the facts and circumstances of the case. When a specific objection is raised and this Court found that the father of the petitioner was working as NMR and not a permanent employee then the scheme of compassionate appointment is not applicable to the legal heirs of the deceased temporary employee (NMR). Therefore, this Court is of the opinion that the petitioner is not entitled to avail the benefit of the scheme of the compassionate appointment. However, this order will not stand in the way of the authority to engage the petitioner as NMR, if he is otherwise eligible or the opportunities are available.

4. With these observations, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

- 1.The Principal Secretary,
State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai - 600 009.
- 2.The Engineer-in-Chief (General),
Public Works Department,
Chepauk, Chennai - 5.
- 3.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Hydrologic Division,
Trichy - 20.



+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10488[F] dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10615[F] dated 08/03/2022)

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