



W.P.No.2345 of 2020

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 22.08.2023

ORDERS PRONOUNCED ON : 19.09.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.No.2345 of 2020

V.Selvam

.. Petitioner

Vs.

1.The Vice Chancellor,
The Tamil Nadu Agricultural University,
Coimbatore-641 003.

2.The Registrar,
The Tamil Nadu Agricultural University,
Coimbatore-641 003.

3.Professor and Head,
Oil Seeds Research Station,
Tindivanam, Villupuram District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent passed in letter No.ALO/WP No.8346/2016 dated 11.01.2019 and the connected Letter No.ALO/WP No.8346/2016 dated 15.05.2019 of the 2nd respondent and set aside the same and



W.P.No.2345 of 2020

consequently direct the 2nd respondent to consider and appoint the petitioner on compassionate grounds in the post of Driver (or) in any other vacancy post in the respondent University.

For Petitioner : Mr.DJ.Adinarayanan

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by
M.Vijaya Mehanath
Standing Counsel

ORDER

Heard Mr.DJ.Adinarayanan, learned counsel for the petitioner and Mr.J.Ravindran, learned Additional Advocate General, assisted by Mr.Vijaya Mehanath, learned Standing Counsel appearing for the respondents and perused the record.

2. The case of the petitioner is that the petitioner's father, who was working as Provincialised Unskilled Mazdoor (PUSM) in the Oil Seeds Research Station, Tindivanam, which comes under the control of the 2nd respondent, died on 07.04.2013 at the age of 58 years while in service. The sudden demise of his father put the family to untold miseries. A



W.P.No.2345 of 2020

WEB COPY

lumpsum amount of Rs.1,50,000/- was sanctioned to the mother of the petitioner. The mother of the petitioner was appointed as labour in the 3rd respondent's office in the year 1980 and she continued in service even after the demise of the petitioner's father. Her services were regularised on 09.09.2014. Due to ill health of the petitioner's mother, during blood transfusion, at Government Hospital, Viluppuram, she was infected with HIV virus. This was not known to her during the initial stage. Later it was learnt during the blood test and due to this reason, she tendered her resignation in the month of June, 2015 and the same was accepted.

3. Consequent to the death of the petitioner's father, the petitioner submitted an application on 11.12.2014 seeking for employment on compassionate grounds. The petitioner belongs to MBC. The sister and brother of the petitioner also gave No Objection Certificate on 07.12.2014 to provide employment to the petitioner. The petitioner studied up to SSLC and is holding heavy vehicle driving licence. As such, he is eligible for appointment either for the post of Driver or any other suitable job. On 09.06.2015, he sent another representation to the



W.P.No.2345 of 2020

WEB COPY

2nd respondent. As no orders were passed by the respondents, the petitioner filed W.P.No.8346 of 2016. The said writ petition was disposed of on 01.11.2018 with a direction to the 2nd respondent to consider the representation of the petitioner for compassionate appointment within a period of six weeks and to intimate the decision thereafter to the petitioner. In pursuance of the same, the 2nd respondent by proceedings dated 11.01.2019, rejected the request of the petitioner on the ground that the petitioner did not submit the consolidated certificate from the revenue authorities certifying that no other family member of the deceased employee is in employment and the family of the deceased employee is in indigent circumstances.

4. It is the case of the petitioner that the 2nd respondent has instructed the petitioner to produce a consolidated certificate from the revenue authorities. Due to certain discrepancies in the impugned letter dated 11.01.2019, the petitioner sent reply notice dated 21.03.2019 to the 2nd respondent. Again the 2nd respondent issued letter dated 15.05.2019 informing and rejecting the claim of the petitioner. Aggrieved by the



W.P.No.2345 of 2020

same, the present writ petition is filed.

5. A counter affidavit has been filed on behalf of the respondents.

6. It is stated in the counter affidavit that the father of the petitioner expired on 07.04.2013 while in service of the University leaving behind his wife, three sons and one daughter as legal heirs. The wife of the deceased employee submitted an application seeking appointment under compassionate grounds to his son, i.e., the petitioner. It is also stated that the mother of the petitioner was also working as Mazdoor in Oil Seeds Research Station, Tindivanam on consolidated pay and later she was brought into regular establishment as Provincialised Unskilled Mazdoor and her service was regularised with effect from 16.07.2014. By order dated 08.09.2014, her application was rejected informing that her family would not be eligible to be considered for appointment on compassionate grounds, since she is already in employment under the University and the family is not facing any



W.P.No.2345 of 2020

indigent circumstances. It is also stated that without considering the order dated 08.09.2014, the petitioner submitted his application seeking compassionate appointment. As already the application was rejected, the petitioner's application was not considered by the respondents. Meanwhile, the petitioner filed W.P.No.8346 of 2016 and as per order dated 01.11.2018 of this Court, the application of the petitioner was considered on merits and by letter dated 11.01.2019, it was informed that since the petitioner's mother/wife of the deceased employee is working as Mazdoor on time scale of pay at the Oil Seeds Research Station, Tindivanam, another family member in the same family is not entitled for appointment on compassionate grounds. It was also informed that the petitioner did not submit a consolidated certificate issued by the revenue authority. Subsequently, another letter dated 15.05.2019 was issued by the 2nd respondent intimating that the request of the petitioner for compassionate appointment cannot be considered.

7. It is further averred in the counter affidavit that the mother of the petitioner submitted her resignation from service on 21.05.2015 and



W.P.No.2345 of 2020

the same was considered and accepted with effect from 13.10.2015 subject to condition that she shall have no right over her present post, service or expected future benefits that may arise on any contingency out of her employment in the university. As such, the resignation of the mother of the petitioner will not entitle him to seek appointment on compassionate grounds.

8. The petitioner filed additional affidavit, wherein it is stated that the mother of the petitioner was died on 05.10.2020. The petitioner also filed death certificate of his mother and copy of medical records as additional typed set of papers.

9. Learned counsel for the petitioner submits that due to the nature of work as Unskilled Mazdoor in the Oil Seeds Research Station, Tindivanam, both parents of the petitioner's health got deteriorated and they totally became anaemic and it is necessary for them to get blood from a donor for their health and survival. Hence, left with no other option except to get blood transfusion from the blood bank of the



W.P.No.2345 of 2020

WEB COPY

Government Hospital at Tindivanam, both of them used to have blood transfusion only in the Government Hospital because of their financial condition and they both were infected with HIV positive in the donor population or due to unhygienic use of needles for blood transfusion. Due to that ill health, the father of the petitioner died on 07.04.2013 and the mother of the petitioner died on 05.10.2020. As both breadwinners of the family expired, the entire family of the petitioner is in indigent condition and as such, the claim of the petitioner for compassionate appointment has to be considered by the respondents without going into the technicalities.

10. On the other hand, learned Standing Counsel for the respondents contends that by the time of death of the father of the petitioner, the mother of the petitioner was in employment and as such, their family was not in indigent condition. Subsequently on 21.05.2015, the mother of the petitioner tendered resignation and the same was accepted on 15.10.2015. Even after the death of his mother, the petitioner is not entitled to seek appointment on compassionate grounds



W.P.No.2345 of 2020

in the absence of indigent circumstances and sought to dismiss the writ petition.

11. Having heard the submissions of the respective counsels and upon careful perusal of the material available on record, it appears that after the death of the father of the petitioner, the mother of the petitioner submitted an application seeking appointment to the petitioner on compassionate grounds and the same was rejected by the 2nd respondent on 08.09.2014. The petitioner himself submitted application for compassionate appointment subsequently on 11.12.2014 and the same was rejected by the 2nd respondent on 11.01.2019 on the ground that the petitioner's mother is working as Mazdoor at the Oil Seeds Research Station, Tindivanam and as such, another family member in the same family is not entitled for appointment on compassionate grounds. The same was reiterated in another letter issued by the second respondent on 15.05.2019. In fact, the mother of the petitioner, due to serious ill health, tendered resignation from service on 21.05.2015 and the respondents accepted the same with effect from 13.10.2015. The contention of the respondents is that the petitioner is not entitled to seek appointment on



W.P.No.2345 of 2020

compassionate grounds, though his mother resigned from the respondent's service.

12. However, on consideration of the factual position narrated in the additional affidavit of the petitioner and on perusal of the death certificate of the petitioner's mother dated 17.10.2020, and copy of the medical records placed before this Court, it appears that the mother of the petitioner suffered serious ill health due to HIV positive and she died on 05.10.2020. Under the circumstances, it is an admitted fact that now both the parents of the petitioner are no more. Admittedly, both parents of the petitioner were regular employees in the respondent's organisation. It is also an admitted fact that the petitioner made application seeking compassionate appointment on the ground of death of his father and it was rejected by the respondents on the ground that mother of the petitioner is employed in respondent's organisation.

13. Now the respondents also have to accept that the entire situation has changed, as the mother of the petitioner also died on



W.P.No.2345 of 2020

05.10.2020. This Court is unable to accept the contention of the respondents that the family of the petitioner is not in indigent condition. On careful examination of the averments in the counter affidavit filed by the respondents, it appears that they rejected the claim of the petitioner from the beginning without properly understanding the aim and object of the compassionate appointment scheme.

14. Accordingly, in the considered opinion of this Court, the respondents ought to have reconsider the claim of the petitioner in view of the present situation that the family of the petitioner lost the breadwinners of the family and as such, the family is in the distress and indigent condition. The opinion of this Court is fortified by various orders of Hon'ble Apex Court and High Courts.

15. It is appropriate to extract the observation of the High Court of Andhra Pradesh in ***K.Udaykiran vs. State of Andhra Pradesh*** reported in ***2021 SCC OnLine AP 2009*** at Paragraph Nos.15 and 20 as hereinunder:

“15. The respondents have to understand the



WEB COPY



W.P.No.2345 of 2020

very purpose of providing compassionate appointment, which is meant for providing employment assistance to the dependants of the deceased employee, who died in harness and thereby to provide some relief to the family from undergoing financial sufferings. When the family of the deceased employee consisting of illiterate wife and minor child, since, they have no other source of livelihood after the untimely death of the bread winner of the family, the respondents should have been much more sympathetic and practical in considering the claim of the dependants of the deceased employee for compassionate appointment.

20. This Court expects from the respondents also such type of liberal approach in considering the claims of the dependants of the deceased employees for compassionate appointments. This court holds that the respondents shall consider the cases of the dependants of the employees died in harness with human touch without considering only technicalities.”

16. In this regard, it is worthwhile to refer the case in **Balbir Kaur**



v. *Steel Authority of India Limited* reported in **(2000) 6 SCC 493**

wherein their Lordships (U.C. Benarjee, J speaking for the Bench) of the Hon'ble Supreme Court have held as under:

“In the case of appointment considering the social and economic justice as enshrined in the constitution, denials of deserving cases are liable to be set aside. Further, the purpose of providing compassionate ground to a son or daughter or a near relative of the deceased government servant is to render assistance to the family, which is found in indigenous circumstances. Hence, in considering the case for compassionate appointment, the authorities are supposed to adopt a human outlook.”

17. The Hon'ble Apex Court further held at Para No. 19 as extracted hereinunder:

“The concept of social justice is the yardstick to the justice administration system or the legal justice and as Respondent pointed out that the greatest virtue of law is in its adaptability and flexibility and thus it would be otherwise an obligation for the law courts also to apply the law



W.P.No.2345 of 2020

depending upon the situation since the law is made for the society and whichever is beneficial for the society, the endeavour of the law court would be to administer justice having due regard in that direction.”

18. In this regard, it is worthwhile to refer the case in ***Superintending Engineer v. V.Jaya*** reported in ***(2007) 6 Mad LJ 1011***, wherein their Lordships comprising a Division Bench of this Court have held at Para No. 7 as extracted hereinunder:

“7. However, in a case of request for appointment on compassionate ground, however, the Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot ignore the very purpose of providing employment on compassionate ground to the dependant of an employee/government servant dying in harness in preference to anybody else as it is done so in order to mitigate the hardship to the family of the employee on account of his unexpected death while still in service. The concept of compassionate employment is intended to alleviate the distress of the family and it is



W.P.No.2345 of 2020

for such purpose appointments are permissible and provided even in the rules and regulations and any rigid approach or too technical objections may defeat the very object of the scheme. It is for that purpose while considering the request for compassionate appointment; the authorities are expected to act as a Good Samaritan overlooking the cobwebs of technicalities.”

19. In the light of the settled proposition of law stated *supra* and for the above mentioned reasons, this Court is of the considered opinion that the petitioner has made out a case to issue a writ of mandamus directing the respondents to consider the claim of the petitioner seeking compassionate appointment without reference to the objections raised in the impugned orders.

20. In the result, this writ petition is allowed with the following directions:

- i. The impugned letters in Letter No.ALO/WP No.8346/2016, dated 11.01.2019 and the connected Letter No.ALO/WP No.8346/2016,



W.P.No.2345 of 2020

WEB COPY

dated 15.05.2019 of the 2nd respondent are hereby set aside; and

- ii. The respondents are directed to consider the claim of the petitioner for compassionate appointment in any suitable post within a period of six weeks from the date of receipt of a copy of this order.

21. There shall be no order as to costs.

19.09.2023

Note: Issue order copy by 22.09.2023.

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr



W.P.No.2345 of 2020

WEB COPY

To

- 1.The Vice Chancellor,
The Tamil Nadu Agricultural University,
Coimbatore-641 003.
- 2.The Registrar,
The Tamil Nadu Agricultural University,
Coimbatore-641 003.



WEB COPY



W.P.No.2345 of 2020

BATTU DEVANAND, J.

abr

Pre-delivery Order made in
W.P.No.2345 of 2020

Dated : 19.09.2023