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W.P.No.5410 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.5410 of 2023

R.Arunagiri

... Petitioner

Versus

1. The State Rep by
Secretary to Government
Social Welfare Department
Secretariat, Chennai – 600 009

2.The District Collector
Vellore District

3.The District Collector
Ranipet District, Ranipet

4.The Block Development Officer
Arcot Block, Vellore District

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceedings in Na.Ka.No. 694/ 2021/ PG1 dated 28.11.2022 and quash the same and consequently direct the respondents to give appointment to the petitioner under compassionate ground for the post



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of noon meal organizer or any other suitable join under compassionate ground in the light of WP No. 4031 of 2020 dated 24.02.2020 which was upheld by the division bench in WA No. 174 of 2022 dated 7.2.2022.

For Petitioner : Mr.P.Murali

For Respondents : Mr.P.Baladhandayutham for R1 to 3
Special Government Pleader

Mrs.C.Sangamithirai for R4
Special Government Pleader

ORDER

This writ petition has been filed challenging the Order rejecting the application for the compassionate appointment.

2. The petitioner's father namely Mr.Ramalingam, worked as Noon Meal Organiser in the Government Primary School, Kurumudithangal Village, Vellore District and died in harness on 21.08.2022. Further, the petitioner made a representation on 13.11.2000 for compassionate appointment. However, the same has not been considered. Therefore, the petitioner filed a writ petition in W.P.No.33953 of 2019 to consider the representation. However the representation has been rejected on 27.02.2015. The petitioner, once again,



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made a representation dated 12.08.2015 that is also not considered. Hence, the petitioner filed a writ petition in W.P.No.34910 of 2015, wherein, this Court vide Order dated 26.06.2021 set aside the rejection order dated 27.02.2015 holding that the petitioner made representation seeking compassionate appointment during the year 2000 itself, which is well within the limitation period, however, the authorities kept the application pending from the year 2000 itself and the delay was on the part of the respondent authority. Thereafter, by setting aside the earlier order of rejection directed the respondents for passing appropriate orders on merits. Thereafter, it appears that once again, the impugned order has been passed on 28.11.2022 rejecting the application for compassionate appointment mainly on the grounds that the application has been given after 15 years of the death of the father. That apart, as per the Government Order in G.O.Ms.No.48, Social Welfare and Women Empowerment Department dated 18.08.2021, wherein, the compassionate appointment is restricted only to female legal heirs. Challenging the same, this writ petition has been filed.

3. The fourth respondent has filed the counter to the effect that the application has been given only on 12.08.2015 after a delay of 15 years from the date of the death of his father, that apart, the Government Order has been passed



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restricting the appointment for male members, whereas, it is the contention of the learned counsel for the petitioner that the application has been filed in the year 2000 itself which has been clearly recorded in the earlier order passed by this Court in W.P.No.34910 of 2015, while, it specifically held that the application has been kept pending by the respondents and there was no fault on the petitioner. However, it is stated as if the application is given only in the year 2015. Further, the Government Order passed in the year 2021 is sought to be put against the petitioner. Accordingly, the Government Order itself is unconstitutional and discriminatory in nature. The learned Special Government Pleader for the respondent submitted that as per the Government Order, the petitioner's application has been rejected.

4. It is relevant to note that the application has been rejected only on two grounds, they are, the application has been given only after 15 years of delay, the above ground is not correct. Even in the earlier Order passed by this Court in W.P.No. 34910 of 2015, wherein, in paragraph 4 of the Order, this Court has clearly recorded the factual aspect, which would read as follows:

"4. Admittedly, the petitioner has made representation seeking appointment on compassionate grounds to the respondents during the year 2000 itself, which is well within the limitation period. However, the said representation was kept pending by the



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respondent and only pursuant to the order of this Court dated 19.12.2014 made in W.P.No.33953 of 2014 filed by the petitioner, the second respondent vide order dated 27.02.2015 rejected the claim of the petitioner. Thereafter, the petitioner has made another representation dated 12.08.2015 to the respondents and since the same has not yet been considered, has filed this writ petition."

5. Therefore, the rejection on the ground of delay cannot be sustained in the eye of law. As far as invoking the Government Order in G.O.Ms.No.48, Social Welfare and Women Empowerment Department dated 18.08.2021, this Court is of the view that such Government Order cannot be given retrospective effect. The petitioner has accrued right to get the compassionate appointment in the year 2000 itself. That apart, restricting the compassionate appointment only to the female legal heirs is nothing but discriminative and violative of equality clause under Article 14 of the Constitution of India.

6. Such view of the matter, this Court is of the view that rejecting the application on the above two grounds cannot be sustained in the eye of law. Accordingly, this respondents shall consider the compassionate appointment, if the petitioner finds suitable to the post of Noon Meal Organizer. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this Order.



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N. SATHISH KUMAR, J.

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7. With the above directions, this writ petition stands disposed of. No costs.

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Internet: Yes/No

Index : Yes/No

Neutral Citation : Yes/No

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