



WEB COPY



W.P. No. 10631 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10631 of 2023

L.Shunmugam

... Petitioner

-VS-

The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street,
Coimbatore 641 001.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus directing the Respondent to consider the Appeal given by the Petitioner dated 29.04.2022.

For Petitioner : Mr. C.Deepak Kumar

For Respondent : Mr. K.M.D.Muhilan,
Standing Counsel

ORDER

Heard Mr. C.Deepak Kumar, Learned Counsel for the Petitioner and Mr. K.M.D.Muhilan, Learned Standing Counsel appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The father of the Petitioner, viz., A.Lakshmanan, who was working as Sanitary Inspector in the services of the Respondent, viz., Coimbatore City Municipal Corporation, had been declared to be medically unfit for continuation in service by the Medical Board in its report dated 29.03.2021 and he had been relieved from service on voluntary retirement with effect from 30.03.2021 by Proceedings in Na. Ka. No. 7241/2021/E2(Ki) dated 22.04.2021 passed by the Respondent. The Petitioner had made a representation dated 22.04.2021 to the Respondent seeking appointment on compassionate ground on the voluntary retirement of his father relying on G.O. Ms. No. 10, Labour and Employment (Q1) Department dated 13.02.2009 issued by the Government of Tamil Nadu in furtherance to the dictum laid down by the Hon'ble Supreme Court of India in *V.Sivamurthy -vs – State of Andhra Pradesh* [(2008) 13 SCC 730] holding that the case of dependants of medically invalidated employees stand on an equal footing to that of dependants of employees who die in harness for the purpose of extending the benefits of compassionate appointment to them. However, the Assistant Commissioner, Coimbatore City Municipal Corporation by Proceedings in Na. Ka. No. 4088/2021/M.C.6 dated 27.04.2022 had declined to entertain the claim made by the Petitioner on the ground that his father had completed 53 years of age, which disentitles the Petitioner for consideration for compassionate appointment under the said Governmental



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Order. The grievance ventilated by the Petitioner in this Writ Petition is that his father had submitted the application for voluntary retirement on 20.12.2018, but the Respondent had delayed the matter and took the ultimate decision on 22.04.2021 to relieve him from service for which the Petitioner cannot be blamed. In that backdrop, the Petitioner had made preferred an appeal dated 29.04.2022 to re-consider the matter, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. Having regard to the limited scope of the relief sought in the Writ Petition, this Court without expressing any view on the merits of controversy involved, passes the following order:-

- (i) the concerned authority shall immediately examine the appeal dated 29.04.2022 made by the Petitioner including ascertaining as to whether the Petitioner would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal



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hearing to the Petitioner and all other persons concerned to explain their

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- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the concerned persons under written acknowledgment; and
- (v) the report of such compliance shall be filed within three months from the date of receipt of copy of this order before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

06.04.2023

kst

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 26.02.2024.

To

The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street,
Coimbatore 641 001.



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P.D. AUDIKESAVALU, J.

kst

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