



W.A.No.997



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.997 of 2023
and
CMP.No.10005 of 2023

1. Food Corporation of India,
Rep.by its Executive Director (South),
Food Corporation of India,
Zonal Office, No.3, Haddows Road,
Chennai - 600 006.
2. The Executive Director (South),
Food Corporation of India, Zonal Office,
No.3, Haddows Road, Chennai - 06.
3. The General Manager (South),
Food Corporation of India, Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.

.. Appellants

Versus

1. S.Anthoniammal
2. A.Sagayanathan

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 10.02.2023 made in WP.No.34981 of 2019.

For Appellants : Mr.C.K.Chandrasekhar
For Respondents : Mr.A.Irundayam



JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

WEB COPY

This writ appeal arises from the order passed by the learned Judge in W.P.No.34981 of 2019 on 10.02.2023.

2.The facts of the case are that the respondents herein are the legal heirs of one E.D.Arockiadass, who was working in the canteen attached to the Food Corporation of India and died in harness on 02.07.2018. The applications made by the first respondent /wife of the deceased seeking compassionate appointment to her and to her son, were rejected by the appellants stating that as per the existing instructions, no new Canteens / Tiffen Rooms are to be opened and no fresh recruitments are to be made.

3.It was put forth on the side of the respondents herein before the writ Court that application for compassionate appointment was made within two months from the date of death of the deceased employee and there were 110 vacancies as per the information obtained through the Right to Information Act on that date and hence, the reason assigned in the order passed by the authorities is not correct. It was the further submission of the learned counsel that Food Corporation of India follows the

Department of Personnel & Training (DoP&T) Policy Guidelines as per the Circular



W.A.No.99

dated 26.03.2013 and in view of the DoP&T guidelines dated 12.04.1996 on compassionate appointments, the employees of non-statutory departmental canteens / tiffin rooms located in Central Government Offices have been declared as Government employees and in view of the vacancies available at the time of consideration of their applications, the rejection is not correct.

4.Per contra, it was put forth on the side of the appellant Corporation before the writ court that when the Corporation had decided not to open new canteens / tiffin rooms and that, no fresh recruitments are to take place and hence, there is no infirmity in the order passed by the authority rejecting the application made by the respondents for compassionate appointment.

5.After hearing both the sides, the learned Judge, referring to the Circular of the Corporation dated 26.03.2013 and the Office Memorandum dated 12.04.1996, held that the employees of non-statutory departmental canteens / tiffin rooms located in Central Government Offices have been declared as Government employees, with effect from 01.10.1992 and they have been extended all the benefits as available to other Government employees of comparable status; that, the eligible dependants of the deceased canteen employees are to be considered for compassionate appointment as per orders/ instructions on the subject; and that, such appointments may be considered in other work areas of the respective departments except in the canteen.



W.A.No.99

WEB COPY

Since the reason assigned by the Corporation that the Corporation does not intend to open new canteens and no fresh recruitments are to be made, is opposed to the DoP&T policy guidelines, which is followed by the Food Corporation of India and that, there were 110 vacancies available in Class IV in Tamil Nadu Region as on 31.01.2018 and 31 vacancies available as on 01.01.2019 and taking note of the principle that in any scheme of compassionate appointment, it is not necessary that the kin of the deceased employee should be accommodated only in that particular Department; and further, having regard to the fact that the ban for appointments was only in respect of fresh appointments, the learned Judge set aside the order impugned in the writ petition and directed the first appellant herein to pass orders appointing the second respondent herein in any suitable post on compassionate grounds, in accordance with the procedure followed for granting such appointments and issue appropriate posting orders, within a period of six weeks.

6.Challenging the order passed in the writ petition, the present writ appeal has been filed by the Corporation.

7.According to the learned counsel for the appellants, the canteen employees are recruited under CDA pattern scale of pay which is not the same as a regular FCI employee where IDA scale of pay is applied and therefore, the canteen employees cannot be considered as a regular FCI employees. Referring to the decision of the



W.A.No.99

Hon'ble Supreme Court in *State Bank of India v. Raj Kumar [(2010) 11 SCC 661]*,

the learned counsel submitted that the claim for compassionate appointment is traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme; and there could be no automatic appointment merely on application.

8.However, the learned counsel for the appellants produced a copy of the I.O.Note dated 18.08.2023 of the Food Corporation of India, Zonal Office(south), Chennai and submitted that the total number of applications pending for consideration under the scheme of compassionate appointment for Category IV post is 485 and in view of the order passed by the learned Judge, the appellants are inclined to add the name of the second respondent in the said list, but his candidature will be considered only as per the seniority in the said list. The said submissions have been agreed to by the learned counsel for the respondents.

9.Taking note of the totality of the facts and circumstances of the case and upon perusal of the materials available on record, this Court is not inclined to differ from the views and observations expressed by the learned Judge in respect of eligibility of the second respondent to be considered for compassionate appointment. However, in view of the above submission made by the learned counsel for the appellants, which has been agreed to by the learned counsel for the respondents, the



W.A.No.99

order passed by the learned Judge directing the appellants to grant compassionate appointment to the second respondent within the stipulated time, stands modified to the effect that the appellants shall keep the name of the second respondent in the vacant list eligible for consideration of appointment under compassionate appointment and provide appointment to him in any suitable post as ordered by the learned Judge, as per the seniority.

10. Accordingly, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
17.10.2023

Index : Yes / No
Internet : Yes / No
av

To

1. The Executive Director (South),
Food Corporation of India,
Zonal Office, No.3, Haddows Road,
Chennai - 600 006.
2. The Executive Director (South),
Food Corporation of India, Zonal Office,
No.3, Haddows Road, Chennai - 06.
3. The General Manager (South),
Food Corporation of India, Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.



WEB COPY

W.A.No.997



R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

av

Writ Appeal No.997 of 2023

17.10.2023