



W.P.No.28904 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	28.02.2023
Pronounced on	15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.28904 of 2016

and

W.M.P.Nos.24971 & 24972 of 2016 & 8046 of 2020

E.Jayavel

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The District Collector,
Nagapattinam,
Nagapattinam District.

4.The Tahsildar,
Vedaranyam,
Vedaranyam Taluk,
Nagapattinam District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records relating to the rejection order passed by the third respondent in



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Pa.Mu.216291/2015/A3 dated 29.06.2016 and quash the same and consequently, direct the respondents to issue appointment order to the petitioner to the post of Village Assistant under compassionate ground.

For Petitioner : Mr.S.Conscious Ilango
for Mr.V.Kasinatha Bharathi

For Respondent : Mr.D.Gopal, GA
Nos.1 to 3

For Respondent-4 : No Appearance

O R D E R

Heard Mr.S.Conscious Ilango, learned counsel for the petitioner and Mr. D.Gopal, learned Government Advocate appearing on behalf of the respondents 1 to 3.

2. The petitioner's father Elangeswaran, while serving as a Village Assistant under the third respondent died in harness on 13.11.1997. The petitioner herein is his son, whose request for compassionate appointment has been rejected through the impugned order dated 29.06.2016, on the ground that since his application dated 05.10.2015 was not made within the period of three years and the earlier application of his mother dated 25.05.1998, was returned by the District Nutritious Meal Scheme Officer, Nagapattinam by his order



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dated 05.06.1998, on the ground that there was a ban for appointment in the District Nutritious Meal Scheme Department and the petitioner had not approached the District Collector, seeking for compassionate appointment.

3. It is not in dispute that, after the petitioner's father had died on 13.11.1997, his mother had made an application on 25.05.1998, within three years from the date of death. This application was acknowledged by the District Nutritious Meal Scheme Officer, Nagapattinam on 05.06.1998.

4. The reason assigned in the rejection order is that, the petitioner's mother had sought for compassionate appointment to the post of nutritious meal worker only, for which post there was a ban for new appointments.

5. Thereafter, when the petitioner's mother had filed an application on 05.10.2015 seeking for compassionate appointment for her son/petitioner herein, the third respondent had stated that the application was not presented within three years from the date of death of the deceased employee. The further reason assigned in the



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impugned order is that, she has not approached the District Collector after the District Nutritious Meal Officer has rejected her claim on 05.06.1998.

6. Both the reasons assigned in the impugned order, are untenable. When the petitioner's mother had sought for compassionate appointment within three years from the date of death of her husband, the District Nutritious Meal Scheme Officer ought to have forwarded such application to the District Collector, since he was of the view that there was a ban for compassionate appointment in that particular Scheme, rather than rejecting her claim. It would be relevant to mention here that a person claiming appointment on compassionate ground cannot opt for a particular post or department for such appointment and it is for the concerned District Collector to consider the application and appoint the legal heir of the deceased to an appropriate post, as per the Scheme of Compassionate Appointment. In view of the acknowledgement of the respondents about the petitioner's mother's application within three years, the first reason assigned in the impugned order that the subsequent application of the petitioner was belated, cannot be sustained.



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7. In the second reason in the order, the District Collector had stated that after the District Nutritious Meal Scheme Officer had rejected the petitioner's mother's application, she had not approached the District Collector and further that he has not received any application from the District Nutritious Meal Scheme in regard to the same and therefore, the petitioner is disentitled to make a claim subsequently. Even this reasoning cannot be sustained. The District Collector ought to have kept in mind that when a legal heir of the deceased employee, who in distressed circumstances, seeks for the lowest level post for appointment in order to overcome the distressed circumstances, he cannot expect such a legal heir to make a second application to the District Collector in view of the rejection of the original application and that too, being there was a ban for new appointments in the Nutritious Meal Scheme.

8. On the other hand, the concerned Authority ought to have forwarded the application to the District Collector when he had realised that there was a ban for fresh appointments in their Scheme. Having not done so, it would be inappropriate to shift the burden on the petitioner's mother by expecting her to approach the District Collector.



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The mistake committed on the part of the District Nutritious Meal Scheme Officer cannot be put on the family members of the deceased employee. On this ground, the impugned order itself, cannot be sustained.

9. The Government has now introduced comprehensive guidelines for compassionate appointment through G.O.(Ms) No.18 Labour and Employment (Q1) Department, dated 23.01.2020. This Court is of the view that if the District Collector could be directed to reconsider the petitioner's request afresh, in the light of the guidelines in G.O.(Ms) No.18, dated 23.01.2020, the ends of justice could be secured.

10. Accordingly, the impugned order of the third respondent dated 29.06.2016, is quashed. Consequently, the petitioner is granted liberty to make a fresh application to the District Collector of Nagapattinam, seeking for compassionate appointment, as expeditiously as possible. On receipt of such an application, the District Collector, Nagapattinam shall consider it in the light of the findings and observations made in this order, as well as the comprehensive guidelines issued in G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020 and without reference to the three years limitation for making an



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application, consider the same positively and pass appropriate orders, within a period of eight weeks from the date of receipt of the petitioner's application.

11. The Writ Petition thus stands partly allowed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

15.03.2023

Internet : Yes
Order : Speaking
Neutral Citation : Yes

DP

Note: Issue order copy on 17.03.2023

To

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.
2. The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.
3. The District Collector,
Nagapattinam,
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Vedaranyam,
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M.S.RAMESH,J.

DP

ORDER MADE IN

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