



W.P.No.17075 of 2020

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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.17075 of 2020

1.Manivannan

2.Karikalan

.. Petitioners

Vs.

1.The Assistant Director of Town Panchayats,
Cuddalore Region,
Beach Road, Cuddalore-607 001.

2.The Executive Officer,
Bhuvanagiri Town Panchayat,
Bhuvanagiri, Bhuvanagiri Taluk,
Cuddalore Ditrect.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 2nd respondent to pass orders on the representation dated 21.06.2019 given by the 1st petitioner considering the communication dated 16.07.2019 in Na.Ka.No.1794/2019/peru 2 issued by the 1st respondent to the 2nd



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respondent.

For Petitioners : Mr.D.Baskar

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

Heard Mr.D.Baskar, learned counsel for the petitioners and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents.

2. The case of the petitioners is that the petitioners' father, i.e., Arumugham, who was working as Sanitary Worker with the 2nd respondent, died on 22.10.2010 while in service leaving behind him a wife, three sons and one daughter. The petitioners are the sons of the deceased employee. One Inbarasan claimed that he is the legal heir of deceased Arumugham. The legal heirs of Arumugham, including the petitioners, have filed O.S.No.91 of 2011 against the false claim made by the said Inbarasan in the District Munsif Court, Chidambaram to declare



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them as legal heirs of the deceased Arumugham. On contest, the suit was decreed by judgment and decree dated 21.02.2013 declaring that the petitioners are the legal heirs of Arumugham and they are entitled to receive all death benefits including job on compassionate grounds. The judgment and decree has become final.

3. The contention of the learned counsel for the petitioners is that when the petitioners approached the 2nd respondent along with all requisite documents, he insisted for submission of legal heirship certificate. As there is no difficulty for issuance of legal heirship certificate, as the civil Court's decree is available in favour of the petitioners, however, the Tashildar delayed to issue legal heirship certificate. He issued legal heirship certificate only on 06.04.2014. The petitioners submitted their application along with all requisite certificates including legal heirship certificate and “No Objection Letter” from all other members of the petitioners as sought for by the respondent. It is orally informed to the petitioners that as and when vacancy arises, they will provide appointment to the 2nd petitioner on compassionate ground.



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Meanwhile, on 13.11.2017, the mother of the petitioners also died.

Again the respondents sought legal heirship certificate. The said certificate was issued on 09.01.2018 and the same was submitted to the respondents. On 21.06.2019, the petitioners sent another representation to the 2nd respondent. Though the petitioners are regularly approaching the respondents personally and requesting to consider their claim for compassionate appointment, the respondents did not take any action till date. Aggrieved by the same, the present writ petition is filed.

4. In spite of service of notice by this Court to the respondents on 04.12.2020, no counter affidavit has been filed by the respondents till date. In fact, as per Rule 24(2) of the Madras High Court Writ Rules, if the respondents intend to file a counter affidavit, it has to be filed within 60 days from the date of receipt of the notice. In view of the fact that the respondents did not choose to file counter affidavit till date, there is no other option to the Court except to treat that the respondents are accepting the contention of the petitioners as the respondents are not having different stand.



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5. On consideration of the facts of the case also, it is an admitted fact that the father of the petitioners died on 22.10.2010 while in service with the 2nd respondent. The 2nd petitioner made claim for compassionate appointment along with all requisite certificates and documents seeking appointment on compassionate ground. The said claim is pending with the respondents. On 21.06.2019, another representation was submitted. It is also an admitted fact that the 1st respondent sent a letter in Na.Ka.No.1794/2019/peru 2, dated 16.07.2019 to the 2nd respondent to consider the claim of the 2nd petitioner.

6. The grievance of the petitioners is that in spite of specific communication from the 1st respondent, the 2nd respondent is not taking any action to consider the claim of the petitioners to provide compassionate appointment.

7. Having heard the submissions of the learned counsel appearing on either side and careful perusal of the material available on record, in



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my view, it is appropriate to direct the 2nd respondent to pass orders for providing compassionate appointment to the 2nd petitioner taking into consideration the letter in Na.Ka.No.1794/2019/peru 2, dated 16.07.2019 of the 1st respondent to meet the interest of justice.

8. Accordingly, this Writ Petition is disposed of directing the 2nd respondent to consider the claim of the 2nd petitioner for compassionate appointment taking into consideration of the letter in Na.Ka.No.1794/2019/peru 2, dated 16.07.2019 of the 1st respondent within a period of six weeks from the date of receipt of a copy of this order.

9. No costs.

19.09.2023

Note: Issue order copy by 22.09.2023.

NCC : Yes/No

Index : Yes/No

Internet : Yes



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To

- 1.The Assistant Director of Town Panchayats,
Cuddalore Region,
Beach Road, Cuddalore-607 001.
- 2.The Executive Officer,
Bhuvanagiri Town Panchayat,
Bhuvanagiri, Bhuvanagiri Taluk,
Cuddalore District.



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BATTU DEVANAND, J.

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Pre-delivery Order made in
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Dated : 19.09.2023