



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.21575 of 2019
and
W.M.P.No.20780 of 2019

P. Krishna Kumar

.. Petitioner

Vs.

1.The Director of School Education,
DPI Office, College Road,
Chennai – 600 006.

2.The District Educational Officer,
Edappadi, Salem District.

3.The Head Master,
Government High School,
Pakkanadu, Adaiyur,
Salem District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.No.5414/A1/2013 dated 02.01.2018 is illegal and to quash the same and consequently direct the 1st and 2nd respondents to appoint the petitioner in the suitable post under the compassionate appointment of the petitioner in the 3rd respondent school from the date of application on 14.09.2005.



For Petitioner .. Mr. Dhalapathy Vignesh Kumar

For Respondents .. Mr. S. Ravikumar, SGP

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records of the 2nd respondent, the District Educational Officer, Edappadi, Salem District, dated 02.01.2018 in Na.Ka.No.5414/A1/2013 and quash the same and direct the 1st and 2nd respondent to appoint the petitioner in a suitable post under compassionate employment in the 3rd respondent school, from the date of application from 14.09.2005.

2. The father of the petitioner was working as secondary grade teacher in the 3rd respondent school namely, Government High School, Pakkanadu, Adaiyur, Salem District. He died on 17.09.2002. The petitioner herein claims that he is the only breadwinner of the family.



3.If that be the case, then immediately, on the death of the father, if necessary had arisen to help the economic condition of the family, the petitioner should have immediately applied for compassionate employment. As a matter of fact, the first right of the compassionate appointment goes to the widow / mother and thereafter, the widow can appoint anyone of the dependants as eligible for compassionate employment.

4.In this case, the petitioner had given application on 13.09.2005 just 4 days prior to the expiry of three years, which is the outer limit, within which an application seeking compassionate employment could be given. This itself shows the real attitude of the petitioner. He just seeks a bounty. He should be prepared to work.

5.The learned Special Government Pleader appearing for the respondents in his response had stated that the family has five acres of land in which, coconut and mango trees were available.

6.The learned counsel for the petitioner also does not dispute holding of the five acres of land by the family, but explains it that the mother is



entitled for $2\frac{3}{4}$ acres and the father is entitled for $2\frac{1}{4}$ acres.

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7.The father's share should necessarily devolve on to the petitioner herein on the death of the father. The petitioner for some reason has omitted his own sister. He should also be open enough to state that the sister also has share in the family property, hut he seems to take the entire lands for himself. He then stated that the father had obtained loan for a sum of two lakhs from Lakshmi Villas Bank, for the marriage of the sister, and this should not be a burden on the petitioner.

8.It is however, stated by the learned Special Government Pleader that the sister was married even prior to the death of the father. The expenses therefore, which fell on the petitioner was negligible and in fact nothing. If there is an obligation to repay the loan, he should pay the loan, he should not look it as a burden.

9.It is also stated that the lands namely, five acres of land are not cultivable. If they are not, the petitioner should put his efforts to ensure that crops are grown. He cannot sit in a corner and cry over the nature of lands.



He should be thankful that five acres of land had been handed over by his parents. It could be in the name of the mother, but the petitioner is the only one enjoying the same.

10. There is yet another additional event, which took place in the life of the petitioner namely, he got married in the year 2011 and by God's grace, his wife is also a Government employee. Certainly, the difficulty which the petitioner had stated about the lands not being cultivable and about the loan in the Lakshmi Villas Bank, would now be to a little extent be taken care of by the wife's salary, which the Government pays every month. The petitioner is not certainly in any difficulty at all.

11. Yet another factor is that the petitioner joined law college and for reasons best known to him, he had not completed the law course, I would look that as a disadvantage. He had not applied his mind and completed the law course, though he had joined the same. Not many people get this privilege of five acres of land being handed over by the parents and moreover in the five acres of land, coconut and mango trees are grown. The sister's marriage had also been conducted by the father, even before he died.



This is of advantage to the petitioner. The additional advantage of marrying a lady who is already employed in the Government service still adds to the strengthen of the financial condition of the petitioner herein.

12. In view of the above reasoning, I am not inclined to grant the relief sought in this petition. According, the Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

20.07.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
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To

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C.V.KARTHIKEYAN,J.

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