



W.P.No.20482 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.20482 of 2020

R.Jaiganesh

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The District Revenue Officer,
Villupuram.

3.The Tahsildar,
Melmalaiyanur Taluk,
Villupuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent vide proceedings No.Naq.Ka.A4/22848/2020 dated 04.12.2020 and to quash the same and consequently, direct the second respondent to revise the petitioner's appointment as Junior Assistant with effect from the date of his appointment with all service benefits by taking into account of the services rendered in the cadre of Village Assistant with effect from 19.01.2011 and other monetary benefits.

For Petitioner : Mr.J.Sunil Kumar

For Respondents : Mr.G.Nanmaran,
Special Govt. Pleader



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ORDER

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This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the first respondent vide proceedings No.Naq.Ka.A4/22848/2020 dated 04.12.2020 and to quash the same and consequently, direct the second respondent to revise the petitioner's appointment as Junior Assistant with effect from the date of his appointment with all service benefits by taking into account of the services rendered in the cadre of Village Assistant with effect from 19.01.2011 and other monetary benefits.

2. Heard Mr.J.Sunil Kumar, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

3. The petitioner has been appointed as Village Assistant on compassionate ground consequent to the death of his father who worked as Village Administration Officer.



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4. Mr.J.Sunil Kumar, learned counsel for the petitioner submitted that the petitioner has the required qualification to be appointed as Junior Assistant and he is entitled to get the benefit of the Government Order in G.O.Ms.No.1499 dated 03.08.1989. The learned counsel for the petitioner also cited a judgment made in W.P. (MD) Nos.13354 & 13355 of 2013, in which, the following observations have been made:

"3. It is the case of the petitioners that they are entitled to be appointed as a Junior Assistant with effect from the date of appointment in terms of G.O.Ms.No.1499, Labour and Employment (Q1) Department, dated 03.08.1999.

4. It is submitted that unaware of the Government Regulation, the petitioners' accepted the employment as a Record Clerk on Compassionate Ground even though both of them had passed SSLC which was the qualification prescribed for the post of Junior Assistant. In this connection, they referred to para 2(iii) of G.O.Ms.No.1499 dated 03.08.1989 which reads as under:

"The appointing authorities under no circumstances should appoint a dependent



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to a lower post when the dependent possess the qualifications required for the post of Junior Assistant / Typist on the ground of non-availability of vacancy in the office or department or the dependents not willing to work in other departments. In such circumstances, they should follow the existing procedure of approaching the Collector of District for providing a suitable vacancy as suggested in G.O.Ms.No.1179, P & AR dated 14.10.1979."

5. On the footing of the above Government Order, the petitioner claims that he ought to have been posted as Junior Assistant instead of Village Assistant. Therefore, the petitioner has filed this Writ Petition seeking the above prayer.

6. Mr.G.Nanmaran, learned Special Government Pleader for the respondents submitted that even at the time of appointment itself, the petitioner has accepted to serve as Village Assistant. Having accepted the job on compassionate ground, the petitioner cannot turn the table against



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the administration by challenging the appointment.

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7. The core contention of the petitioner is that though he is qualified to be placed against the post of Junior Assistant, he was placed as Village Assistant. As on the date when the petitioner's father died, the petitioner was only nine years old. The petitioner had completed +2 examination in the year 2001 and he attained his majority only on 19.06.2001. Though his mother is also qualified for compassionate appointment, she did not opt to get the appointment, but all along making representations only on behalf of her son. Knowing pretty well that the minor son cannot be accommodated in employment, the mother of the petitioner was making representation to keep the file alive for the sake of her son.

8. It is understandable if the petitioner had possessed the required qualification for Junior Assistant at the time of the death of his father and that he was not given with the said post. The petitioner was only nine years old at the time of death of his father and thereafter, he studied and



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completed +2. Knowing pretty well that the Government is considering the request of the petitioner's mother for seeking appointment for the petitioner after several years and to avoid the risk of losing the opportunity, the petitioner had chosen to accept the job which was offered to him without any objection.

9. The compassionate appointment is given to the dependent of the deceased Government Servant in order to save the family members from the immediate financial troubles, the family would face due to the death of the bread winner of the family. Just in order to honour the commitment, the petitioner's case was considered and he was accommodated as Junior Assistant. If the overambitious relief sought by the petitioner is granted, the whole scheme of compassionate appointment itself will become a mockery.

10. Granting of compassionate appointment is a service benefit attached to the deceased Government Servant which cannot be strictly called as a charity. However there is limitation for such obligations on



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the part of the Government and the person who did not have the qualification for the post of Junior Assistant at that time or within three years from the date of the death of his father cannot claim a post suiting to the educational qualification which was acquired by him subsequent to the death of his father. The petitioner cannot take advantage of his absorption in the service, even though he was not qualified during relevant time and claim any undue stake in the department.

11. For the above said reasons, this Writ Petition is dismissed. No costs.

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Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

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To

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