



W.P.No.24581 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.24581 of 2019

V.Sivabalan

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Social Welfare Department
Fort St. George, Chennai 600 009.

2. The Director of Social Welfare Department
Nagireddy Garden
SIDCO Old Building Complex
Guindy, Chennai 600 032.

3. The District Collector
Villupuram District
Villupuram 605 602.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the entire records connected with the impugned order Na.Ka.No.4691/2017/PeE4 dated 30.10.2018 issued by the third respondent and quash the same and consequently directing the respondents to give appointment to the petitioner on compassionate grounds based on his qualification.



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For the Petitioner : Mr.Lesi Saravanan

For the Respondents : Mr.M.S.Prem Kumar
Government Advocate

ORDER

The writ petition revolves around a very limited campus, namely, whether compassionate appointment can be made to a son of the deceased Government employee.

2. The petitioner's father was working as a Noon Meal Organiser at Kadavanur Middle School, Rishivandiyam, Villupuram District and he died on 22.09.2013 while he was in service. As one of his legal heir, the petitioner, namely, his son applied to the said post on compassionate ground. His application was received by the Block Development Officer and forwarded to the Director of Social Welfare and Nutritious Meal Programme seeking relaxation from the Government of Tamil Nadu.

3. The Director of Social Welfare, Chennai, in and by communication dated 27.03.2017 and Government letter dated 17.02.2017 informed the District Collector, Villupuram that it is the



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policy of the Government to appoint only female candidates as Noon Meal Organisers. Since the proposal was not from a female, but only from the son of the deceased, the petitioner was denied compassionate appointment.

4. The petitioner has approached this Court in W.P.No.21526 of 2017 and this Court, by order dated 27.07.2018, directed the respondents to re-examine the petitioner's case notwithstanding the earlier order passed and impugned in the said writ petition and pass a reasoned and speaking order. Subsequently, the third respondent has passed the impugned order dated 30.10.2018.

5. The third respondent has filed a counter stating that their decision is strictly in accordance with the statute and various policies of the Government and sought for dismissal of the writ petition, since relaxation cannot be granted in the instant case where compassionate appointment is sought by a male legal heir.

6. Heard learned counsel for the petitioner and learned Government Advocate for the respondents.



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7. Learned counsel for the petitioner would rely on the order of this Court dated 11.03.2015 made in W.P.No.24005 of 2014. In almost identical circumstances, where the petitioner therein sought compassionate appointment as Noon Meal Organiser, this Court held that even on earlier occasions, rule has been relaxed and male members have been appointed as Noon Meal Organisers and therefore, on that score, the petitioner therein should not be discriminated and this Court remitted the matter back to the first respondent, namely, the Government of Tamil Nadu for fresh consideration and to issue appointment orders by relaxing the condition which was put against the petitioner therein.

8. Learned counsel for the petitioner would also rely on an order of a Division Bench of this Court dated 25.11.2019 made in W.P.No.28945 of 2019, wherein the Division Bench of this Court dealt with a case of the petitioner therein being a minor and his application not being submitted within three years from the date of demise of the father. However, this Court finds that the ratio laid down or directions issued therein are not applicable to the facts of the present case, as, this is not a case pertaining to a belated application for compassionate appointment.



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9. The only issue in the present writ petition is as to whether the son, being a male heir, can seek compassionate appointment or not. However, considering the fact that this Court has taken note of this issue earlier and also found many instances where the rule has been relaxed and male legal heirs have in fact been appointed to the post of Noon meal Organiser, the respondents clearly fell in error in rejecting the petitioner's case on that ground alone. Therefore, the impugned order is liable to be said aside.

10. In view of the above, the impugned order is set aside. The respondents shall consider the petitioner for appointment, if they find him otherwise suitable, without putting his status of being a son/male legal heir of the deceased to the post of Noon Meal Organiser, on compassionate ground. The respondents shall carry out this exercise within a period of four weeks from the date of receipt of a copy of this order. There will be no order as to costs.

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Index : Yes/No
Neutral Citation : Yes/No

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P.B.BALAJI,J.

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