



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.25372 of 2021

M.Sridharan

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Petitioner

versus

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Block Development Officer (VP),
Thandrampet Union,
Tiruvannamalai District.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in proceeding bearing Na.Ka.No.973/2020/௮௮3 dated 09.07.2021 and quash the same and direct the first respondent to consider the case of the petitioner for compassionate appointment as per the application of the petitioner dated 20.01.2020.

For Petitioner : Mr.K.S.Viswanathan

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader



ORDER

The petitioner has filed this petition seeking a writ of Certiorarified Mandamus, calling for the records of the first respondent in proceedings bearing Na.Ka.No.973/2020/௮௮3 dated 09.07.2021 and quash the same and consequently direct the first respondent to consider the petitioner's application for compassionate appointment.

2. Heard Mr.K.S.Viswanathan, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner's father namely Mani was appointed as Panchayat Assistant (Panchayat Secretary) in Agaram Pallipet Village, Thandarampet Panchayat Union on 03.04.2002 on consolidated pay and he died, while he was in service on 04.11.2019. He was survived by his wife and 3 sons. The petitioner being one of the sons of the deceased Mani had made a representation on 20.01.2020 to the first respondent seeking appointment on compassionate grounds. The first respondent issued an order dated 09.07.2021 by rejecting the request of the petitioner on the



ground that the services of the deceased Mani were not regularised at the time he died. Hence challenging the above order, the Writ Petition has been filed by the petitioner.

4. Mr.K.S.Viswanathan, learned counsel for the petitioner submitted that the petitioner's father had served for more than 18 years and he was under regular time scale of pay. After 18 years, it is unfair on the part of the respondents to state that the appointment of the deceased Mani was irregular and his services were not regularised. As per the guidelines for the appointment on compassionate grounds, issued in G.O.(Ms).No.18, Labour and Employment (Q1) Department dated 23.01.2020, only the following category of the persons, whose legal heirs are not eligible for consideration under compassionate appointment grounds:-

“(i) Persons who are retained in service under Fundamental Rule 56 (1) (c) after the date of superannuation.

(ii) Persons who are under Temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularised.

(iii) Persons who do not come under regular time scale of pay.”



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5. Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents submitted that the father of the petitioner did not have the essential educational qualification i.e. pass in SSLC and at the time of appointment, he was 33 years which was over aged. It is further submitted that the first respondent has sent a letter to the deceased Mani on 06.01.2016 in Letter No.10960/2014/PC2 that he should qualify SSLC in order to retain his post. Since his employment itself was questionable, he was not regularised till his death.

6. As per the guidelines for appointment of compassionate grounds, persons who are under temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularised, are not eligible in order to get the benefit of compassionate appointment on their legal heirs. The qualifying age and the minimum essential educational qualification for the post of Panchayat Assistant is prescribed in G.O.(Ms).No.245, Rural Development & Panchayat Raj (E5) Department dated 04.08.1997 and G.O.(Ms).No.72, Rural Development & Panchayat Raj (E5) Department dated 09.07.2013.



7. But the fact remains that the father of the petitioner was given with the benefit of regular time scale of pay. As per the guidelines, only if the deceased employee did not get the regular time scale, the benefit of compassionate appointment cannot be given to his legal heir. The regularisation of the services of the deceased Mani was pending on the note that Mani was over aged to the post and he did not have the minimum essential qualification of pass in SSLC.

8. Even though the Government was aware of Mani's irregular appointment, the efforts were just to ratify his appointment by making him to pass SSLC. If Mani was alive, he would have got SSLC pass by appearing in SSLC examination. His over age, there is a possibility to relax the age and ratify the appointment. Since Mani is no more, the above ratification cannot be done.

9. Once the Government has chosen to pay the regular time scale of pay for Mani and brought him within the folder of G.O.(Ms).No.18, Labour and Employment (Q1) Department dated 23.01.2020, the Government cannot turn around and deny the benefit of compassionate



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appointment to his legal heir. Since the Government had lost the reasons for withholding the regularisation of Mani's services, the Government cannot think upon those process as the reasons for denying the benefit of compassionate appointment to the petitioner. Since the petitioner is covered under G.O.(Ms).No.18, Labour and Employment (Q1) Department dated 23.01.2020, the respondents are bound to consider his representation for compassionate appointment positively.

In the result, this Writ Petition is **allowed** and the order passed by the first respondent in Na.Ka.No.973/2020/௮௭3 dated 09.07.2021, is quashed and the first respondent is directed to provide an appointment to the petitioner under the compassionate grounds suiting to the qualification and pass an order to that effect within a period of six (6) weeks from the date of receipt of a copy of this order. No costs.

22.11.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



To

- 1.The District Collector,
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R.N.MANJULA, J.

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