



W.P.No.34981 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.34981 of 2019
and
W.M.P.No.35777 of 2019

1.S.Anthoniammal

2.A.Sagayanathan

...Petitioners

-Vs-

1.Food Corporation of India,
Rep. by the Executive Director (South),
Food Corporation of India,
Zonal Office, 3, Haddows Road,
Chennai - 600 006.

2.The Executive Director (South),
Food Corporation of India,
Zonal Office, 3, Haddows Road,
Chennai - 600 006.

3.The General Manager (South),
Food Corporation of India,
Regional Office,
8, Mayor Sathyamoorthy Road,
Chetpet, Chennai,
Tamil Nadu - 600 031.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the relevant records of the impugned proceedings pertaining to issue of Letter No. PP07/06/IR/2010/Vol-II dated 10.07.2019 by office of the 3rd respondent addressed to the 1st petitioner and quash the same as unfair, arbitrary, unreasonable, malafide and in violation of Rule of Law as well as in gross violation of Fundamental Rights guaranteed under Article 14 and 16 of the Constitution together with consequential direction to the respondents to consider the revised letter of request dated 21.08.2019 addressed by the petitioner addressed to the 2nd respondent for appointment of the 2nd petitioner on compassionate grounds in any of the Group D posts.

For Petitioners : Mr.A.Irudayam

For Respondents : Mr.M.Imthias

ORDER

Heard Mr.A.Irudayam, learned counsel for the petitioners and Mr.M.Imthias, learned counsel for the respondents.

2. The petitioners herein are the legal heirs of late E.D.Arockiadoss, who was serving in the canteen attached to the Food Corporation of India.



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When he died on 02.07.2018, the first petitioner had made an application on 31.09.2018, seeking for compassionate appointment. On 08.11.2018, the first petitioner had made another application for compassionate appointment in favour of the second petitioner, who is her son. Through the impugned order dated 10.07.2019, the first petitioner's request was rejected by the respondents stating that as per the existing instructions, no new Canteens/ Tiffin Rooms are to be opened and no fresh recruitment are to be made and in this regard, her request for appointment on compassionate grounds was not considered. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the application has been made within two months from the date of death of the late employee and on that date, there were 110 vacancies as per the information obtained through the Right to Information Act. As such, the reason assigned by the respondents in the impugned order is incorrect. He further submitted that the Food Corporation of India follows the Department of Personnel & Training (DoP&T) policy guidelines, as per the Circular dated 26.03.2013 and in view of the DoP&T guidelines dated 12.04.1996 on compassionate appointments, the employees of non-statutory departmental canteens/tiffin rooms located in



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Central Government Offices have been declared as Government employees and in view of the vacancies available at the time of consideration of their application, the rejection is improper.

4. Per contra, the learned counsel appearing for the respondents placed reliance on the impugned order and submitted that when the Corporation had decided not to open new canteens/tiffin rooms and also that no fresh recruitments are to be made, there is no infirmity in rejecting the first petitioner's application for compassionate appointment.

5. The Circular of the Headquarters of Food Corporation of India in Circular No.EP-01-2013-07, dated 26.03.2013, states that Food Corporation of India follows DoP&T policy guidelines in respect of appointments on compassionate grounds. As per the Office Memorandum of the DoP&T, dated 12.04.1996, the employees of non-statutory departmental canteens/tiffin rooms located in Central Government Offices have been declared as Government employees, with effect from 01.10.1992 and have been extended all benefits as are available to other Government employees of comparable status. The Memorandum further states that the eligible dependents of the



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deceased canteen employees are to be considered for compassionate appointment as per orders/instructions on the subject and that such appointments may be considered in other work areas of the respective departments except in the canteen. There is a further order that when requests are received from kin of deceased canteen employees for appointment on compassionate grounds, such requests should not be rejected merely on the ground that the deceased employee was a canteen employee and/or vacancies in the canteen are not allowed to be filled up.

6. It is not in dispute that this Office Memorandum of DoP&T, dated 12.04.1996, applies to the employees of the Food Corporation of India also, insofar as it relates to appointment on compassionate grounds, in view of their Circular dated 26.03.2013.

7. The only reason assigned in the impugned order for rejecting the petitioner's request is that the Food Corporation of India does not intend to open new canteens and no fresh recruitments are also being made. To such a reasoning, the petitioner sought for certain information from the respondents under the provisions of the Right to Information Act and by a letter dated



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09.09.2019, the Central Public Information Officer of the Food Corporation of India had informed that as on 31.01.2018, there are 110 vacancies in Class IV in Tamil Nadu Region and 31 vacancies as on 01.01.2019. The letter also affirms that the Food Corporation of India follows DoP&T policy guidelines in respect of appointment on compassionate grounds.

8. In any scheme of compassionate appointment, it is not necessary that the kin of the deceased employee should be accommodated only in that particular department where the deceased employee was serving. As a matter of fact, in the DoP&T policy guidelines, dated 12.04.1996, this aspect was clearly explained in the following manner:-

"2. The employees of non-statutory departmental canteens/ tiffin rooms located in Central Government Offices have been declared as Government employees, w.e.f. 1.10.92 vide this Department's O.M.No.12/5/91-Dir.(C) dated 29.1.91 and have been extended all benefits as are available to other Government employees of comparable status. As such the eligible dependents of the deceased canteen employees are to be considered for compassionate appointment as per orders/instructions on the subject. However keeping in view the complete



ban on creating/filling up of posts in the canteens imposed vide O.M.No.3/1/92-Dir.(C) dated 30.1.92, such appointments may be considered in other work areas of the respective departments except in the canteen. Requests received from kin of deceased canteen employees for appointment on compassionate grounds should not be rejected merely on the ground that deceased employee was a canteen employee and/or vacancies in the canteen are not allowed to be filled up."

9. The reasoning now adopted by the respondents in the impugned order seems to indicate that the legal heirs can be accommodated only in the canteen and therefore have denied such a request on the ground that there are no new canteens sought to be opened by the Food Corporation of India. This reasoning adopted in the impugned order is opposed to the DoP&T policy guidelines, which is adopted by the Food Corporation of India, insofar as the claim for compassionate appointment is concerned, in view of the fact that the legal heirs of the deceased employee can be accommodated in any of the department of Food Corporation of India and not necessarily in the canteen department.



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10. The learned counsel for the respondents also submitted that there was a ban for fresh recruitments in Group-IV at the time of consideration of the petitioner's application. The learned counsel for the petitioner submitted that such a ban was only for fresh appointments in the canteen and not in the other departments of Food Corporation of India. Now that this Court has clarified that compassionate appointment need not be restricted to the department in which the deceased employee was working and can be accommodated in other departments, the indication of this ground in the impugned order also required interference.

11. For all the foregoing reasons, the impugned order dated 10.07.2019 is quashed. Consequently, there shall be a direction to the first respondent herein to forthwith pass orders, appointing the second petitioner herein in any suitable post under compassionate grounds, in accordance with the procedure followed for granting such appointments and issue appropriate posting orders, within a period of six weeks from the date of receipt of a copy of this order.



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12. The Writ Petition stands thus allowed. No costs. Consequently,
connected miscellaneous petition is closed.

10.02.2023

Index:Yes
Internet:Yes
Speaking order
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To

- 1.The Executive Director (South),
Food Corporation of India,
Zonal Office, 3, Haddows Road,
Chennai - 600 006.
- 2.The General Manager (South),
Food Corporation of India,
Regional Office,
8, Mayor Sathyamoorthy Road,
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Tamil Nadu - 600 031.



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M.S.RAMESH,J.

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