



W.P.No.31635 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 10.11.2023**

CORAM

**THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**

**and**

**THE HON'BLE MR.JUSTICE K.RAJASEKAR**

**W.P.No.31635 of 2023**

S.Satheesh Kumar

... Petitioner

-VS-

The Principal District Judge,  
Cuddalore District,  
Manjakuppam,  
Cuddalore-607 001.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorairifed Mandamus to call for the records and quash the proceedings of the respondent dated 03.06.2023 in A.R.No.8489 of 2023 dated 17.05.2023 signed on 03.06.20203 and consequently direct the respondent to appoint the petitioner in any post commensurate with his educational qualification on compassionate grounds.

For Petitioner : Mr.D.Baskar  
For Respondent : Mr.Vijayshankar  
\*\*\*\*\*

**ORDER**

*(By.S.Vaidyanathan,J.,)*

This Writ Petition has been filed, seeking to quash the proceedings of the respondent dated 03.06.2023 in A.R.No.8489 of 2023 dated 17.05.2023 signed



*W.P.No.31635 of 2023*

on 03.06.20203, in and by which, his request for compassionate appointment on the ground of medical invalidation of his father stood rejected in terms of G.O.Ms.No.18 dated 23.01.2020, as his father had crossed 53 years of age at the time of invalidation. It was also stated in the impugned proceedings that G.O.Ms.No.33 dated 08.03.2023 has come into effect from 08.03.2023 and the said Government Order is not applicable to the case of the petitioner, as his father had attained retirement as early as on 27.09.2021 itself. The petitioner also sought a direction to the respondent to appoint him in any post commensurate with his educational qualification on compassionate grounds.

2. It is the case of the petitioner that his father joined the services of the State Judicial Service on 02.08.1998 as Junior Bailiff and he was affected with polio attack from his birth. His father, by request dated 14.12.2020, sought for voluntary retirement on the ground of medical invalidation, with the simultaneous request to consider appointing the petitioner on compassionate grounds. It is common knowledge that Corona struck the entire world from 2020 to 2022 and therefore, his father was referred to the Medical Board on 09.09.2021 after a lapse of 9 months.



*W.P.No.31635 of 2023*

2.1. It is further case of the petitioner that after obtaining a report from the Medical Board, the respondent herein took another one month's time to pass an order dated 08.12.2022, invalidating his father on medical grounds from the forenoon of 27.09.2021. On 19.01.2022, his father forwarded another application for compassionate appointment along with requisite documents and the said application was returned by the respondent, stating that his father had completed 53 years at the time of invalidation, as the delay in deciding the application of his father was on the part of the respondent.

3. Per contra, the respondent has contended that the age of retirement was 58 years and in case the petitioner's father was found medically invalidated before completion of 53 years as adumbrated under G.O.(Ms) No.18 dated 23.01.2020, his case would have been considered. It is further contended that the said Government Order was in force, when the application for petitioner's father for medical invalidation was considered and therefore, the subsequent Rules, namely, Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023 enacted vide G.O.(Ms.) No.33 dated 08.03.2023 will not be applicable to the case of the petitioner's father.



*W.P.No.31635 of 2023*

4. Heard the learned counsel on either side and perused the documents.

WEB COPY

5. The petitioner's father joined the State Judicial Service on 02.03.1998 and decided to quit the service on medical invalidation on account of poliomyelitis with the percentage of disability of 60% to 80%. His father applied for voluntary retirement on medical grounds and sought for compassionate appointment to his son, viz., petitioner herein. Since the spread of Corona virus was on the peak during the relevant point of time, petitioner's father was referred to the Medical Board only after nine months, which is disputed by the respondent herein and on receipt of medical opinion, he was relieved from service with effect from 27.09.2021 FN. By the time he was medically invalidated, he had crossed 53 years of age, pursuant to which, his request for compassionate appointment to his son was negated by the respondent in the light of the Government Order dated 23.01.2020.

5. The main grievance of the petitioner is that if his father was referred to the Medical Board in time, the entire problem ought not to have arisen and there was a delay on the part of the respondent in doing so during pandemic period.



*W.P.No.31635 of 2023*

The petitioner also stated that the Government issued an order in G.O.Ms.No.33

Labour Welfare and Skill Development (Q1) Department dated 08.03.2023

notifying Rules for providing appointment on compassionate ground to the

legal heirs of the deceased / medically invalidated Government servants and he also

referred to Rule 2(g) in support of his averments, which reads as under:

"(g) "medically invalidated" means, a Government servant ordered to be retired from service with not less than five years of left over service, on medical invalidation in the public interest under Fundamental Rule 56(2) read with rule 24(b) of rules for "Leave procedure in the case of the Government servants", made under Fundamental Rule 74 and 'medical invalidation' shall be construed accordingly."

Thus, it was the argument put forth by the petitioner that even going by the

aforesaid Rules, he is entitled to be considered for appointment, as he had also

sent applications on 19.01.2022 and 17.05.2023 with the same requests.

6. The outer age limit for a Government Servant to claim compassionate appointment on medical ground should be within 53 years as per the then Government Order dated 23.01.2020 and the Government subsequently issued an order fixing the outer time limit of five years and to be more precise, a



*W.P.No.31635 of 2023*

Government servant seeking compassionate appointment must not have less than five years of left over service. Even otherwise, in this case, G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 was in force, when the application was made and at that time, admittedly, the petitioner's father had more than five years of service, as he was 52 years 9 months old. Hence, we are of the view that rejection of the petitioner's case for compassionate appointment may not be correct. Of course, there was a restlessness in the world due to the sudden rise of Corona virus and no delay can be attributed on the side of the respondent herein, as the respondent is said to have referred the case of the petitioner's father to the Medical Board within a month.

7. Taking note of the fact that the petitioner's father was only 52 years and nine months at the time of applying for VRS on medical grounds, in the considered opinion of this Court, the proceedings dated 03.06.2023 of the respondent made in A.R.No.8489 of 2023 dated 17.05.2023 signed on 03.06.2023 warrant interference by this Court. Accordingly, this Writ Petition is allowed and the proceeding dated 03.06.2023 of the respondent is hereby quashed. There shall be a direction to the respondent to consider the case of the



*W.P.No.31635 of 2023*

petitioner afresh, bearing in mind what is stated herein-above and pass necessary orders thereon within a period of two months from the date of receipt of a copy of this order. No costs.

**[S.V.N.,J.]      [K.R.S.,J.]**  
**10.11.2023**

Internet: Yes / No  
Index: Yes/ No  
ar

To:

The Principal District Judge,  
Cuddalore District,  
Manjakuppam,  
Cuddalore-607 001.



WEB COPY



*W.P.No.31635 of 2023*

**S.VAIDYANATHAN,J.,**  
**AND**  
**K.RAJASEKAR,J.,**  
ar

**W.P.No.31635 of 2023**

**10.11.2023**