



W.P.No.483 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.483 of 2019

K.Arul

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Revenue Department,
Secretariat, Chennai - 9.
2. The District Collector,
Dharmapuri District,
Dharmapuri.
3. The Revenue Divisional Officer,
Dharmapuri.
4. The Tahsildhar,
Harur Taluk,
Harur.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in Na.Ka.31917/2012/A4 dated 18.08.2018 and quash the same and direct the respondents to appoint the



W.P.No.483 of 2019

petitioner on compassionate grounds in any suitable post commensurate with his qualification and eligibility within a limited time frame.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.M.Shajahan
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records on the file of the 2nd respondent in Na.Ka.31917/2012/A4 dated 18.08.2018 and quash the same and direct the respondents to appoint the petitioner on compassionate grounds in any suitable post commensurate with his qualification and eligibility within a limited time frame.

2. The brief facts of the case of the petitioner are as follows :

i) The petitioner's father who was working as Village Assistant at Settrapatty Village died in harness on 18.05.1996 leaving behind his widow, three sons and a daughter in dire straits. Immediately thereafter, the petitioner's mother had applied for compassionate appointment to his elder brother Tr.K.Anbalagan to the said post. The 4th respondent herein,



W.P.No.483 of 2019

by his proceedings 7065/96 dated __.07.1996 informed Tr.K.Anbalagan that in view of the ban on appointment, the filling up of the post of Village Assistant shall have to wait for Government orders and directed his brother to make fresh representation on receipt of any such Government order. The 3rd respondent herein, by his proceedings Om.7052/96/C1 dated 02.08.1996, had informed that there is no scope for compassionate appointment to the post of Village Assistant on compassionate grounds, as appointment to the said post itself barred by the Government.

ii) In the meanwhile, the 1st respondent herein in G.O.Ms.No.362, Revenue (Per.7.2) Department dated 07.07.1999 had stated that the legal heirs of those Village Assistants, who services are regularised and who died in harness after 01.06.1995 are only eligible for compassionate appointment. In pursuance of the said Government order, the 4th respondent herein, by his proceedings Na.Ka.No.6199/99/A3 dated 29.11.1999 had informed that though the petitioner's father died on 18.05.1996 (after 01.06.1995), his services has not been regularised in the post of Village Assistant and hence, in accordance with the above Government order, he is not eligible for compassionate appointment.



W.P.No.483 of 2019

WEB COPY

iii) Thereafter, the 4th respondent herein, in pursuance of G.O.Ms.No.625, Revenue Department dated 06.07.1995, issued Na.Ka.No.7838/99/A3 dated __03.2001, regularising the services of 86 Village Assistants in Harur Taluk w.e.f. 01.06.1995. The services of petitioner's father Tr.Kullu @ Muniyampadi, Village Assistant of Settrapatti Village, was also regularised w.e.f. 01.06.1995 in and by the said proceedings, in which, his name is placed at Sl.No.62. Thus, the only impediment against the grant of compassionate appointment to the petitioner's elder brother had also been wiped away. Even thereafter, his case was not considered, despite various representations. After lapse of several years, his brother's case was processed and the 4th respondent in and by his consolidated certificate for grant of compassionate appointment dated 26.11.2010 had recommended for grant of compassionate appointment to Tr.Anbalagan. However, the 2nd respondent herein in and by his proceedings dated 21.01.2011, had surprisingly informed that his mother Tmt.Muniammal had applied for compassionate appointment only on 13.01.2000 and as if Tr.Anbalagan had for the first time applied for compassionate appointment on 28.09.2010 and hence, held that the application is time barred and



W.P.No.483 of 2019

rejected the same.

WEB COPY

iv) Immediately, it was pointed out to the 2nd respondent that the application was made immediately after the demise of his father. Thereafter, the 2nd respondent issued one other proceedings in Na.Ka.No.33035/2011 dated 18.12.2011, wherein, after referring to the earlier order of rejection dated 21.01.2011 had taken a different stand that the applicant Tr.K.Anbalagan was born on 20.07.1962 and his present age being 49 years, he has crossed the upper age limit for compassionate appointment and hence his application has been rejected.

v) The petitioner preferred W.P.No.30342 of 2014 before this Court for issuance of a Writ of Mandamus, directing the respondents herein to consider his claim for compassionate appointment to any suitable post in commensurate with his qualification and eligible and to pass appropriate orders within a limited time frame. This Court after hearing both sides and considering all the facts and circumstances on 14.03.2018 was pleased to dispose of the Writ Petition with a direction to the 2nd respondent, *to take an informed and considered decision on such*



W.P.No.483 of 2019

applications, taking note of the aforesaid facts and also the fact that the compassionate appointment is given to bail out the family member of an employee died in harness, from distress, within a period of two months from the date of receipt of a copy of this order and communicate the same to the writ petitioner. However, the 2nd respondent has issued the impugned order in Na.Ka.No.31917/2012/A4 dated 18.08.2018, rejecting the claim of the petitioner. Hence, the above Writ Petition has been filed.

3. Denying the averments made in the petition, the respondents filed a counter affidavit by stating that, in the impugned order passed by the 2nd respondent in Na.Ka.No.31917/2012/A4 dated 18.08.2018, it has been highlighted that the petitioner's elder brother Mr.Palanisamy was working in Indian Bank, Kumbakonam branch of Thanjavoor District, as per the report of the 4th respondent and that the family is not at all in indigent circumstances and the application of the petitioner and his brother Mr.Anbalagan are all time bared. It is further stated that the petitioner's father was having 3.50 Acres of land under Patta No.71 of Appiyam Patty H/o Settrapatti Village, Harur Taluk. Out of this, Thiru.Anbalagan is having his share of 0.85 Cents of land. Moreover, he



W.P.No.483 of 2019

had purchased a land to the extent of two acres at Vadugappatti Village.

His wife Koilmani is also having 3.50 acres of land through her father.

Thus, Mr.Anbalagan family is having more than six acres of land and also living in their own house which is a Terraced Building. The petitioner is also working as a Car driver in a private company at Chennai. All the sons have crossed the upper age limits. Thus, the order of the 2nd respondent cannot be exposed as harsh and colourable exercise of power as arbitrary with malafide motivation. As such, there was no illegalities in issuing rejection orders as contended by the petitioner.

4. Heard the learned counsel appearing for the petitioner as well as the Learned Special Government Pleader appearing for the respondents.

5. The learned counsel for the petitioner submitted that the petitioner has satisfied all the eligibility criteria for grant of compassionate appointment and the 2nd respondent failed to consider that the petitioner's family was all along been in indigent circumstances at the time of preferring the application from 1996 and awaiting the disposal of their application till the order of this Court dated 14.03.2018. Even then, the 2nd respondent had rejected their claim for one reason or the other.



W.P.No.483 of 2019

Hence, the impugned order is unsustainable and liable to be set aside.

WEB COPY

6. The learned counsel for the petitioner further submitted that the 2nd respondent rejected the claim of the petitioner on the ground that his application is not preferred within three years, ignoring the settled law that the second application in the family for compassionate appointment cannot be rejected on the ground that the same is time barred. While the 2nd respondent in the impugned order has accepted that the first application of petitioner's elder brother is made within three years, he ought to have considered the claim of the petitioner for compassionate appointment and thus, the impugned order passed by the 2nd respondent is without application of mind.

7. The Learned Special Government Pleader appearing for the respondents submitted that the application of the petitioner seeking compassionate appointment was rejected on the basis of the orders of the Government and the impugned order passed by the 2nd respondent is as per law abiding the principles of natural justice.

8. I have considered the submissions made on either side.



W.P.No.483 of 2019

WEB COPY

9. The application submitted by the petitioner on 20.02.2012 to the 2nd respondent seeking compassionate appointment, is not in dispute. Originally, the petitioner's mother Muniammal and brother Anbalagan had applied for compassionate appointment and the same was rejected by the 2nd respondent on the ground that their applications were time barred. Subsequently, the petitioner had given application for compassionate appointment and since there was no reply, he preferred W.P.No.30342 of 2014 before this Court, seeking a direction to the 2nd respondent to consider his claim for compassionate appointment. This Court, after hearing both sides, disposed of the petition with a direction to the 2nd respondent to take an informed and considered decision on the petitioner's application, within a period of two months from the date of receipt of a copy of the order. The 2nd respondent, by his proceedings dated 18.08.2018, has rejected the claim of the petitioner. Hence, the above Writ Petition.

10. Similar issue with regard to the appointment on compassionate ground was dealt with by the Hon'ble Apex Court in the case of ***Fertilizers and Chemicals Travancore Ltd. & Ors. Vs Anusree K.B.***, wherein, it is held in Paragraphs 9 & 10 as follows :



WEB COPY

“9. Thus, as per the law laid down by this Court in the aforesaid decisions, compassionate appointment is an exception to the general rule of appointment in the public services and is in favour of the dependents of a deceased dying in harness and leaving his family in penury and without any means of livelihood, and in such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give such family a post much less a post held by the deceased.

9.1 Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the observations made hereinabove and the object and purpose for which the appointment on compassionate ground is provided, the respondent shall not be entitled to the appointment on compassionate ground on the death of her father, who died in the year 1995. After a period of 24 years from the death of the deceased employee,



W.P.No.483 of 2019

WEB COPY

the respondent shall not be entitled to the appointment on compassionate ground. If such an appointment is made now and/or after a period of 14/24 years, the same shall be against the object and purpose for which the appointment on compassionate ground is provided.

9.2 Under the circumstances, both, the learned Single Judge as well as the Division Bench of the High Court have committed a serious error in directing the appellants to reconsider the case of the respondent for appointment on compassionate ground. The impugned judgment and order passed by the High Court is unsustainable.

10. In view of the above and for the reasons stated above, the present appeal succeeds. The judgment and order passed by the learned Single Judge as well as the Division Bench of the High Court are hereby quashed and set aside. Present appeal is accordingly allowed. No costs.”

11. In view of the law laid down by the Hon'ble Apex Court in the aforesaid decisions to the facts of the present case on hand and considering the observations made therein, it is hereby held that the petitioner is not entitled for appointment on compassionate ground at this



W.P.No.483 of 2019

juncture on account of the death of his father, who died in the year 1996.

WEB COPY

12. Accordingly, this Writ Petition is dismissed. No costs.

12.06.2023

raja

Index : yes/no

Internet : yes/no

To

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 9.
2. The District Collector,
Dharmapuri District,
Dharmapuri.
3. The Revenue Divisional Officer,
Dharmapuri.
4. The Tahsildhar,
Harur Taluk, Harur.



WEB COPY



W.P.No.483 of 2019

V.BHAVANI SUBBAROYAN.J.,

raja



WEB COPY



W.P.No.483 of 2019

W.P.No.483 of 2019

12.06.2023