



W.A.(MD)No.1270 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1270 of 2013

A.Sikandar Mohamed Mohideen

...Appellant

/Vs./

1.The Commissioner & Director of Agriculture,
Agricultural Department,
Chepauk, Chennai – 600 005.

2.The Deputy Director of Agriculture,
(Agri Business),
Thoothukudi,
Thoothukudi District.

...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to
set aside the order passed by this Court dated 16.09.2013 in W.P.
(MD)No.2519 of 2013.



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For Appellant : Mr.G.Prabhu Rajadurai
For Respondents : Mr.M.Sidharthan
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

The writ petitioner was born to one Abbas, who passed away on 31.05.1971. His mother remarried one Kader Hussain, brother of late Abbas. It is the contention of the writ petitioner / appellant that he was brought up thereafter by Kader Hussain, who treated him as his own son.

2. On that premise, writ petitioner / appellant sought compassionate appointment, pursuant to the death of Kader Hussain, who had been employed as Assistant Agricultural Officer in the Department of Agriculture, Vilathikulam under the control of Tirunelveli Marketing Secretariat.



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3. Since there was no immediate action on the application filed by the writ petitioner / appellant, he sought a mandamus directing the respondents to provide appointment on compassionate basis. The writ petition was dismissed on 16.09.2013 by the learned Single Judge, holding, and rightly so, that there was no provision in the scheme for employment to be provided on compassionate basis to a step son.

4. This view finds support from G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993, wherein at para 5, only the dependants of the deceased Government Servant, named to be the wife / husband / son, unmarried daughter would be eligible for compassionate appointment. There is no avenue to expand the scope of appointment as provided under the applicable Government Order.

5. The learned counsel for the appellant would then urge that the writ petitioner / appellant may be permitted to approach the State for relaxation and draws our attention to Clause 17 of G.O.Ms.No.33 Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023,



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which provides power to the state to relax, where the Government is of the opinion that it is necessary and expedient to do so.

6. Though we normally would not stand in the way of an aspirant approaching the authority seeking relaxation, in this case, we are of the firm opinion that it would be appropriate to even permit him to do so. This is for the reason that the appellant, as on date, is aged 55 years old and thus, we do not see any possibility of relaxation being granted in this matter.

7. For the aforesaid reasons, this Writ Appeal is found devoid of merits and is dismissed. No costs.

[A.S.M.J.] & [R.V.J.]
07.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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AND
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