



W.P.(MD)No.1575 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 1575 of 2019

and

W.M.P(MD)No. 1358 & 1359 of 2019

K. Mariappan ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.

2. The Director,
Directorate of Town Panchayats,
Kuralagam, Chennai- 600 108.

3. The District Collector,
District Collector office,
Tirunelveli

4. The Executive Officer
Special Grade Town Panchayat
Kallidaikurichi – 627 416
Ambasamudram Taluk,
Tirunelveli District

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref.Na.Ka.No.3513/2006/Pa2 dated 09.01.2019 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondent No.3 to reinstate the petitioner as Bill Collector in Kallidaikurichi Town Panchayat with consequential benefits.

For Petitioner : Mr. G.Karthick for
M/s.Lajapathy Roy & Associates

For Respondents : Mr. M.Lingadurai,
Special Government Pleader, for R-1 & R-2
No appearance - R-4

ORDER

This writ petition is filed for *Writ of Certiorarified Mandamus*, to quash the impugned order, 09.01.2019, with a consequential direction to the 3rd respondent to reinstate the petitioner as Bill Collector, with consequential benefits, within the stipulated time.

2. Heard Mr. G.Karthick for M/s.Lajapathy Roy & Associates the Learned Counsel appearing for the petitioner and Mr. M.Lingadurai, the Learned



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Special Government Pleader appearing for the respondents 1 to 3 and perused the material documents placed on record.

3. The petitioner's father, namely M.Krishnan died on 11.07.1993 while on service and the petitioner was minor and was only 2 years old at the time of his father's demise. However, she had submitted an application on 16.11.1994 seeking compassionate appointment for the petitioner on later date on attaining major. The petitioner's mother K.Velammal had followed up the issue, by further submitting application on 21.06.1999 to the 3rd respondent. Since the petitioner has passed SSLC, the 3rd respondent has issued an order appointing the petitioner on compassionate ground, vide proceedings, dated 22.02.2008 posting the petitioner as Bill Collector at Vadakarai Keezhpidagai Town Panchayat. After duly considering the petitioner's educational certificates with medical fitness, the petitioner's pay scale was fixed at Rs.3200-85-4900.

4. The petitioner has joined the said service on 25.08.2008. Since the petitioner was not regularized, he has submitted a representation, dated 18.09.2017 which was duly recommended by the 4th respondent, vide



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proceedings, dated 18.09.2007. However, the 3rd respondent, vide proceedings, dated 28.05.2018 informed that consent could not be obtained from the Tamil Nadu Public Service Commission towards regularizing the service, since the petitioner's appointment order was issued in contravention to various government orders and guidelines in force and directed to submit an explanation, as to why the petitioner's appointment cannot be cancelled. The respondents have referred the G.O.Ms.No.560 dated 03.08.1977 and G.O.Ms.No.120 dated 26.06.1995 and declined to regularize the service of the petitioner.

5. The contention of the respondents is that in respect of compassionate appointment, the Government has issued several government orders, in which it is mandated that every application for compassionate appointment must be submitted before the employer, within 3 years from the date of demise of the employee. However, in the present case, the petitioner was minor at the time of demise of his father. Therefore, the petitioner's application could not be considered. Moreover, the Government has come out with the policy decision and issued G.O.Ms.No.42 dated 12.03.2007, wherein strictly it has been prescribed to follow three years limitation period.



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6. In the present case, the 3rd respondent has issued an appointment order, without following conditions for the compassionate appointment. Therefore, the 1st respondent has declined to regularize the service of the petitioner.

7. It is seen from the records that the petitioner was appointed in the year 2008 and was serving for the last 14 years. At this juncture, the respondents cannot remove the petitioner from service.

8. Admittedly, it is a mistake of the respondents to grant compassionate appointment without following the rules. Once a person is appointed, then he cannot be removed from service. Moreover, it would affect the family circumstances and if an employee is without any job his mental stability would be affected. More so the petitioner has served for more than 14 years. Therefore, taking all these grounds, this Court is inclined to quash the impugned order.



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9. It is submitted by the petitioner as well as the respondents that at the time of admission, this Court has granted interim stay. Based on the interim stay, the petitioner is continuing his service, therefore the respondents are directed to allow the petitioner to continue his service. The respondents are also directed to regularize the service of the petitioner. After regularizing the service of the petitioner, whatever benefits is applicable to the petitioner the same shall be disbursed. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of the order.

10. With these observations and directions, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

15.06.2023



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 1575 of 2019**

15.06.2023