



W.P.(MD).No.14148 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.14148 of 2022

S.Vijayaganesh

... Petitioner

Vs.

- 1.The Commissioner of School Education,
Education Department,
Secretariat, Fort St.George,
Chennai-9.
- 2.The Director of Schhool Education,
DPI Compound, College Road,
Nungampakkam, Chennai-600 006.
- 3.The Director of Elementary Education,
DPI Compound, College Road,
Nungampakkam, Chennai-600 006.
- 4.The Deputy Director of School Education(Administration),
DPI Compound, College Road,
Nungampakkam, Chennai-600 006.
- 5.The Chief Educational Officer,
Opposite to the Head Post Office,
Talakulam – (post), Madurai-2.
- 6.The District Elementary Educational Officer,
RMS Road, Madurai-1.



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7. The Additional Assistant Elementary
Educational Officer,
Thirumangalam.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, implementing or directing the respondents to appoint the petitioner to the post of Drawing Teacher or post of Junior Assistant on the grounds of compassionate appointment on the base of the petitioner's representation dated 15.12.2021 within the stipulated time limit that may be fixed by this Court.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents to appoint the petitioner to the post of Drawing Teacher or post of Junior Assistant on the grounds of compassionate appointment on the base of the petitioner's representation dated 15.12.2021 within the stipulated time limit that may be fixed by this Court.



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2. The petitioner's father one Mr.R.Seenivasan was working as Secondary School Teacher at Katrampatty Panchayat Union Middle School, Thirumangalam, Madurai. While so, on 07.04.1998, due to ill health, he passed away. After the death of his father, the petitioner's mother made an application seeking compassionate appointment on 18.03.2003, since the petitioner and his sister were minor at the time of death of their father. However, on the basis of the representation given by the petitioner's mother, compassionate appointment was not given to her but only terminal benefits to which they are entitled on the death of the petitioner's father were released in their favour.

3. After attaining the age of 18, the petitioner's sister made an application seeking compassionate appointment on 04.01.2000 and that was also not considered. However, on the same day, the petitioner's mother has given an application seeking compassionate appointment to the petitioner. The petitioner has also submitted a similar application seeking compassionate appointment to him on 04.01.2000. In the meanwhile, the sister gave no objection in favour of the petitioner on 17.08.2001. However, the application for compassionate appointment of the petitioner is not considered. Hence, this writ petition came to be filed.



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4. The learned counsel for the petitioner has circulated a communication, dated 28.12.2001 made by the 6th respondent to the 3rd respondent which would reveal that an application made by the petitioner has been forwarded before the 3rd respondent for appropriate action. Even after a lapse of nearly 22 years, the said application is not considered by the respondents.

5. Per contra, the learned Government Advocate would submit that the petitioner was a minor at the time of the death of his father and at the first instance, it was the mother who made an application seeking compassionate appointment which was followed by the application of his sister who sought for compassionate appointment. During the pendency of those two applications, the petitioner also sought for compassionate appointment and further, there is no provision under G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020 to accommodate an applicant seeking compassionate appointment instead of the original applicant whose application was pending. For the purpose of more clarity, this Court is inclined to extract the relevant portion of the said G.O as follows:

“If the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from



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the another legal heir of the deceased Government Servant, subject to conditions prescribed for compassionate ground appointment.”

6. Heard Mr.K.Gokul, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents and perused the materials available on record.

7. In the light of the above Government Order, if a person made an application for compassionate appointment at the first instance, only in the event of the death of the person who made an application for appointment on compassionate ground, an alternative application may be accepted from another legal heir of the deceased Government servant, subject to the conditions prescribed for a compassionate ground appointment. In this case, though the mother made an application within a period of 3 years from the date of the death of the Government servant, for the reasons known to the respondents that application has been kept pending without disposal, the petitioner's sister and the petitioner sought for appointment on compassionate ground on the same date i.e., on 04.01.2000. In the light of the said Government Order, only on the death of the first applicant that is the mother of the petitioner, either the petitioner or his sister can make an alternative application seeking employment



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on the compassionate ground. However, in this case, the mother is alive. A perusal of the records would reveal that on 04.01.2000, though the mother has not specifically given no objection, she herself has sought job only for the petitioner and not for her daughter. However, on that particular date 04.01.2000 was not within the prescribed period of 3 years from the date of the death of the petitioner's father.

8. In the light of G.O.Ms.No.18, dated 23.01.2020, this Court is inclined to dismiss the writ petition observing that the petitioner is not entitled for appointment on compassionate ground. Hence, this Writ Petition stands dismissed. No costs.

11.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

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L.VICTORIA GOWRI, J.

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