



W.A.(MD)No.982 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.982 of 2021

and

W.M.P.(MD)No.4440 of 2021

1.The Secretary,
Home Department,
Secretariat, Chennai.

2.The District Collector,
Tirunelveli District, Tirunelveli.

3.The Tahsildar,
Palayamkottai, Tirunelveli.

... Appellants

Vs.

Shanmugaraja

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the orders passed in W.P.(MD)No.5846 of 2014, dated 18.12.2018 on the file of this Court.



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For Appellants : Mr.M.Lingadurai,
Special Government Pleader

For Respondent : Mr.R.Anand

JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

The claim of the sole respondent seeking appointment on compassionate ground was allowed by the learned Single Judge in the impugned order dated 18.12.2018 passed in W.P.(MD)No.5846 of 2014. Thus, the State preferred this Writ Appeal.

2.The father of the respondent was holding the post of Village Administrative Officer and died on 25.11.1993, while he was in service. Admittedly, the respondent was aged about 8 years at the time of death of his father. Thus, he was not eligible to submit the application seeking appointment on compassionate ground. On attaining the age of majority, the respondent submitted the application on 22.05.2006 seeking compassionate appointment. The said application was rejected initially on 17.06.2011 by the Tahsildar and thereafter, rejected by the District Collector vide proceedings dated 10.07.2013, which was under challenge in the Writ proceedings before the learned Single Judge. The



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learned Single Judge allowed the Writ Petition with a direction to provide suitable employment to the writ petitioner on compassionate ground.

3.The learned Single Judge failed to consider the legal principles settled by the Supreme Court in the matter of compassionate appointment. The scheme of compassionate appointment being violative of Articles 14 and 16 of Constitution of India is to be implemented strictly by following the terms and conditions stipulated under the scheme. The compassionate appointment is not the mode of appointment under the constitutional scheme and it is to be extended to the family of the deceased employee to mitigate the circumstances arisen on account of the sudden death. Therefore, the scheme is to be implemented only in respect of the deserving family and not as a matter of course. The penurious circumstances and other mitigating factors as per the scheme are to be ascertained before extending the benefit under the scheme of compassionate appointment.

4.In the present case, the father of the respondent died on 25.11.1993 and the application itself was submitted after a lapse of 13 years on 22.05.2006. The efflux of time of about 13 years would be sufficient to draw an inference that the family could be able to manage 13 years after the death of the employee and



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the respondent was not eligible to seek compassionate appointment within a period of three years from the date of death of the employee.

5.That being the factum, the respondent is not eligible to avail the benefit of the scheme of compassionate appointment. Accordingly, the order impugned dated 18.12.2018 passed in W.P.(MD)No.5846 of 2014 is set aside and this Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

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NCC : Yes / No
Index : Yes / No
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