



W.P.(MD).No.17499 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17499 of 2022

M.Kathiresan

... Petitioner

Vs.

1.The Secretary to Government,
Social Welfare and Noon Meal Scheme Department,
St.George Fort,
Chennai.

2.The District Collector,
Theni,
Theni District.

3.The Block Development Officer,
Andipatti Panchayat Union,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to provide suitable employment on compassionate ground as per G.O.(Ms)No.30 Social Welfare and Noon Meal Scheme (SaNa-4) Department, dated 17.06.2019 by considering the representation of the petitioner, dated 10.02.2021.



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For Petitioner : Mr.S.C.Herold Singh
For R-1 & R-2 : Mr.D.S.Neduncheliyan
Government Advocate
For R-3 : Mr.S.Kameswaran

ORDER

The present writ petition is for a Mandamus, directing the respondents to provide suitable employment on compassionate ground as per G.O.(Ms)No.30 Social Welfare and Noon Meal Scheme (SaNa-4) Department, dated 17.06.2019 by considering the representation of the petitioner, dated 10.02.2021.

2. Heard the learned Counsel for the petitioner, the learned Government Advocate for the respondents 1 and 2 and the learned Counsel for the third respondent and carefully perused the materials available on record.

3. The petitioner's mother one Theivakani served as a Cook in the respondent Panchayat Union Middle School. During her service, she died on 31.05.2020. The petitioner's father is also un-employed and he pre-deceased his mother. The said Theivakani is survived by the petitioner alone. Hence, the



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petitioner had sent a representation on 10.02.2021. But the said representation is not considered and it is kept in abeyance. Hence, this writ petition came to be filed.

4. The learned Counsel for the petitioner contended that the petitioner is entitled for appointment on compassionate ground, since his application is made within a period of three years from the date of death of his mother.

5. Per contra, the learned Government Advocate for the respondents 1 and 2 submitted that the petitioner is not entitled to get employment on compassionate ground in the light of G.O(Ms)No.48 of the Social Welfare and Women's Right (SaNa4-2) Department, dated 18.08.2021, no male could be accommodated as Noon Meal Assistant in their department.

6. The learned Counsel for the petitioner relied upon another G.O(Ms)No.30 of the Social Welfare and Noon Meal Scheme (SaNa4-2) Department, dated 17.06.2019, wherein, there is a specific clause 4(iv), mandating the officials that whenever there is a case of a deceased employee survived only by male legal heir, then such rules of the Noon Meal Scheme to



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accommodate only female employees could be relaxed by getting the permission of the Government through the Collector concerned. As far as G.O(Ms)No.48, dated 18.08.2021 is concerned, it could be only prospective and the date of the petitioner's application is 10.02.2021 and hence, in the light of G.O(Ms)No.30, the petitioner is entitled for employment under compassionate appointment.

7. This Court is of the considered view that in the light of G.O(Ms)No.18 Labour and Employment (Q1) Department, dated 23.01.2020 the application seeking compassionate appointment has been made by the petitioner on time within a period of three years and hence, as asserted by the learned Counsel for the petitioner in the light of G.O(Ms)No.30 of the Social Welfare and Meal Scheme (SaNa-4) Department, dated 17.06.2019, the first respondent is directed to positively respond to the Collector's recommendation seeking relaxation of the guidelines for compassionate appointment and the petitioner be given with proper appointment in the light of above said G.O order within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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8. With the above said observation, this writ petition stands disposed of.

There shall be no order as to costs.

13.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

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L.VICTORIA GOWRI, J.

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