



W.P.(MD).No.16364 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 08.08.2023**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.16364 of 2023**

C.Tamilarasan

... Petitioner

Vs.

1.The Joint Registrar Co-operative Societies,  
Dindigul Region,  
District Collector Office,  
Dindigul District.

2.The Secretary,  
No.2592, Mangalapatti Primary Agricultural  
Co-operative Credit Society,  
Natham,  
Dindigul District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.3266/2022/Ve.Se.Sa dated 13.09.2022 on the file of the first respondent and quash the same as illegal, consequently directing the respondents to consider the petitioner for appoint on compassionate ground.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.N.Muthuvijayan  
Special Government Pleader



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**ORDER**

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The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 13.09.2022 passed by the first respondent and consequently directing the respondents to consider the petitioner for appointment on compassionate grounds.

2.Heard Mr.S.Kumar, learned counsel appearing for the petitioner and Mr.N.Muthuvijayan, learned Special Government Pleader appearing for the respondents and perused the materials available on record.

3.The petitioner's father Silamban was selected as Attender on 19.02.1988 by the Board of the second respondent Society. On 01.07.1998, he was promoted as Clerk. During his service, he passed away on 17.06.2021. After the death of the petitioner's father, well within three years from the date of death, on 20.07.2022 the petitioner's mother submitted an application to the second respondent seeking appointment on compassionate grounds. Based on the petitioner's mother's request, the second respondent sent a proposal to the first respondent through the proper channel. However, no action



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was taken by the respondents to consider the petitioner's appointment on compassionate grounds. On 19.07.2021, the petitioner submitted a petition to the District Collector, Dindigul, which was in turn forwarded to the first respondent for necessary action. The first respondent sent a communication dated 13.08.2021 to the second respondent directing to send a complete proposal to the first respondent's office. Pursuant to the same, the second respondent had sent a complete proposal with a recommendation to consider the petitioner's case for appointment on compassionate grounds. However, the impugned rejection order, dated 13.09.2022 came to be passed. Challenging the same, this Writ Petition came to be filed.

4.The learned Special Government Pleader appearing for the respondents filed a counter-affidavit and vehemently argued that the petitioner is not entitled to seek appointment on compassionate grounds, since the petitioner's father was in temporary employment and he did not come under regular time scale of pay. He reiterated that in the line of G.O(MS)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, persons who are under temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularized are not eligible for



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consideration under compassionate ground appointment. On that basis, the learned Special Government Pleader pressed to dismiss the Writ Petition.

5.However, the learned counsel appearing for the petitioner relied upon the Judgment passed by the Hon'ble Division Bench of this Court in **W.A(MD)No.558 of 2009, dated 09.11.2009 (The Special Officer Vs. The Deputy Registrar and others)**, in a similar case, wherein this Court gave a favourable verdict to the petitioner. The relevant portion of which is extracted as follows:-

*"6.As far as the first contention of the learned counsel for the appellant is concerned, it is true that there is no scheme in the appellant society for providing compassionate appointments. Nevertheless, it is an admitted fact that such appointments are being made in deserving cases. Therefore, merely because there is no scheme available, the request for compassionate appointment cannot be denied. As far as the impugned order in the writ petition rejecting the request for compassionate appointment is concerned, the Society has rejected the request wholly on the ground that the deceased husband of the first respondent was not regularized.*



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*In our opinion, having regard to the fact that the deceased employee had put in 15 years of service and in the absence of any scheme stipulating conditions as to consideration of compassionate appointment to the dependants of a regular employee, whether such employee has been made permanent or yet to be made permanent would be highly too technical to reject the application for appointment on compassionate ground. That apart, factually the name of the deceased employee was recommended by the Special Officer of the society in his proceedings dated 29.03.1996 for regularization along with similarly placed persons. However, before such recommendation was given effect to, unfortunately, the employee died on 15.11.1996. From the records it is also seen that within a period of 14 days, ie., on 29.11.1996, the all other persons numbering 14 and whose names were also recommended along with the deceased employee were regularized. The deceased employee could not be regularized as by that time he was not alive. Had been alive, he would have also also been regularized in service. In view of that, the argument of the learned counsel for the appellant that the deceased was not regularized and therefore, the first respondent cannot seek for compassionate appointment cannot be accepted.”*



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6.Following the same, the learned Single Judge of this Court in **W.P(MD)No.1524 of 2020, dated 04.02.2020 (P.Pandeeswaran Vs. The Registrar of Co-operative Society and others)** has permitted compassionate appointment for the legal heirs of the temporary employee. The relevant portion of which is extracted as follows:-

*"7.It is also not disputed by the respondents that the services of the similarly placed employees, who had rendered services along with the petitioner's father, have now been regularized. This goes without saying that, had the petitioner's father been alive during that relevant point of time when the services of the similarly placed employees were regularized, the services of the petitioner's father also would have been regularized. The unfortunate and untimely death of the petitioner's father during his services, cannot now be cited as a reason that his services were not regularized and therefore, deprived the petitioner to the benefit of on compassionate appointment.*



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7.In another case in **M.Venkatesh Vs. the Principal Secretary to Government** reported in **(2021) 2 MLJ 282**, the Hon'ble Division Bench of this Court, in a similar case, has held as follows:-

*"7. The issue, similar to the present one, has been decided by this Court in various cases and this Court has held that if an employee was qualified for regularization as on the date of his death, then the claim of his legal heirs cannot be rejected. In the present case also, the appellant's father was qualified for regularization as on the date of his death since he had worked for more than 28 years. Therefore, the claim of the appellant cannot be rejected."*

8.This Court is fully in consonance with all the verdicts passed by this Court in the order/Judgment mentioned supra. This is a case where the petitioner's father, who was appointed as attender at the first instance, from which post, he was promoted as a Clerk, who remained in the service of the second respondent Society from 19.02.1988 to 17.06.2021 without regularization ie., for a period of 33 years.



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9.This Court in a batch of Writ Petitions in **W.P.Nos.6425 of 2021 etc batch, dated 12.03.2021 (G.Thamaraiselvan Vs. The Registrar of Co-operative Societies (Housing) and others)**, has given a direction to the Government to extend the benefit of regularization to all the persons who are similarly placed even though they have not knocked at the doors of the Court.

10.Considering the said order, had the petitioner's father been alive, he would have been automatically regularized in service. Hence, this Court is of the considered view that the respondents ought not to have rejected the petitioner's application seeking compassionate appointment on the ground that the petitioner's employment was not regularized.

11.In view of the same, this Court hereby quashes the impugned order, dated 13.09.2022 passed by the first respondent and consequently, directs the respondents to forthwith grant appointment to the petitioner on compassionate grounds, within a period of twelve weeks from the date of receipt of a copy of this order.



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12. With the above observation, this Writ Petition stands allowed. There shall be no order as to costs.

**08.08.2023**

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

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Dindigul District.
2. The Secretary,  
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**L.VICTORIA GOWRI, J.**

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