



W.P.(MD).No.17409 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17409 of 2023

R.Arunkumar

... Petitioner

Vs.

**1.The District Collector,
Pudukkottai District.**

**2.The Assistant Director of Panchayat,
Office of the District Collectorate,
Pudukkottai.**

**3.The Block Development Officer,
Office of Kunrandarkovil Panchayat Union,
Kunrandarkovil Post,
Kulathur Taluk,
Pudukkottai District.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the respondents to provide employment to the petitioner on compassionate ground by considering his application, dated 21.04.2021.

For Petitioner : Mr.P.Ganapathi Subramanian

**For R-1 & R-2 : Mr.N.Muthuvijayan
Special Government Pleader**



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For R-3 : Mr.M.Sarangan
Additional Government Pleader

ORDER

The present writ petition has been filed seeking direction to the respondents to provide employment to the petitioner on compassionate ground by considering his application, dated 21.04.2021.

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

3. The petitioner's father, Ravikumar was appointed as a Clerk at the first instance on 03.11.1998. Thereafter, he was promoted to the post of Panchayat Secretary at Odugampatty Village Panchayat, Pudukottai. While in service, he died on 20.01.2021. The petitioner's father Ravikumar was survived by his wife, the petitioner, the petitioner's brother one Ashok Kumar and sister Akalya. On 21.04.2021, the petitioner submitted an application seeking appointment on compassionate ground along with necessary documents to the



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respondents. However, the said representation was not considered even after a period of more than two years.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. The learned Additional Government Pleader for the third respondent on the basis of written instruction relying upon G.O(Ms)No.245 of the Rural Development and Panchayat (E5) Department, dated 04.08.1997, submitted that the petitioner's father Ravikumar was appointed to the post of Panchayat Clerk at the age of 36 and in terms of the said G.O, the age limit for being appointed to the said particular post for the persons from B.C community was 33. In view of the same, the petitioner is not entitled to seek compassionate appointment now. He also further stated that the compassionate appointment is not a vested



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right. The appointment cannot be claimed as a matter of right and it is only obligatory on the part of the respondents to consider the same and in view of the said G.O, the respondents are not inclined to consider the same.

6. The learned Special Government Pleader for the respondents 1 and 2 submitted that the petitioner is already married and the circumstances of his family would reveal that he is not suffering from penury and that he is over qualified. However, a perusal of the records would reveal that the application seeking compassionate appointment has been made by the petitioner through proper channel with the endorsement of the Tahsildar and other authorities certifying that the petitioner's family is in penury and hence, the learned Special Government Pleader cannot take an 'U' turn by submitting that the family is not in penury and the argument submitted by the learned Additional Government Pleader also is not sustainable because, having allowed Ravikumar to serve as a Panchayat Clerk at the first instance and later having promoted him to the post of Panchayat Secretary and having acknowledge his unblemished service and fully disbursed his death benefits whatever to which he is entitled to his family, now they cannot take a stand that the petitioner's father



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appointment was not legal in the light of the G.O(Ms)No.245 of the Rural Development and Panchayat (E5) Department, dated 04.08.1997.

7. This Court in W.P(MD)No.1604 of 2018 in a similar case has held that a person, who is serving as a Panchayat Secretary should not be disbursed after a period of eighteen years in the light of the aforesaid G.O. When this Court has disallowed the argument of disqualifying a Panchayat Secretary from the service in the light of the said G.O, this Court is inclined to follow the very same principle in this case for the purpose of the petitioner's application seeking for compassionate appointment. The contentions raised by the learned Additional Government Pleader is not sustainable. G.O(Ms)No.33 of the Labour Welfare and Skill Development Department, dated 08.03.2023 has framed rules called Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023. The said G.O mandates that any application which is made within three years from the date of death of the employee seeking compassionate appointment has to be considered. In this case, the petitioner has promptly made an application seeking compassionate appointment within three years from the date of death of his father and he has also been issued with no objection by all the other legal heirs for him to seek compassionate



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appointment and by the strength of the said G.O, the respondents have to consider the petitioner's application in the light of the G.O(Ms)No.33, dated 08.03.2023 rather negating the petitioner's application in the light of the other G.O mentioned *supra*.

8. This Court is inclined to direct the respondents to consider the petitioner's application, dated 21.04.2022 to provide with employment to the petitioner in the light of G.O(Ms)No.33 of the Labour Welfare and Skill Development Department, dated 08.03.2023, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This writ petition stands disposed of, accordingly. There shall be no order as to costs.

25.07.2023

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



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L.VICTORIA GOWRI, J.

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