



W.P.(MD)No.6427 of 2018

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6427 of 2018

and

W.M.P(MD)Nos.6234 & 6235 of 2018

A.Amimas Winston Selvin

... Petitioner/Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

2.The Director,
Directorate of Collegiate Education,
Chennai – 600 006.

3.The Joint Director,
Joint Directorate of Collegiate Education,
Tirunelveli Region,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Ref.Na.Ka.No.31573/P1/2017 dated 04.01.2018 on the file of the second respondent and quash the same as



W.P.(MD)No.6427 of 2018

illegal and consequently direct the second respondent to appoint the petitioner in the cadre of Junior Assistant within a stipulated period.

For Petitioner : Mr.T.Aswin Rajasimman for
M/s.T.Lajapathi Roy Associates

Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order in Ref.Na.Ka.No.31573/P1/2017, dated 04.01.2018, on the file of the second respondent as illegal and consequently, to direct the second respondent to appoint the petitioner in the cadre of Junior Assistant within a stipulated period.

2. The case of the petitioner is that the father of the petitioner died in harness while he was in service as a Driver, leaving behind the petitioner and other legal heirs. Immediately thereafter, the petitioner submitted an application for appointment on compassionate ground at the age of 15 years and at that time, he was studying IX standard. Subsequently, the petitioner passed X standard, XII Standard and acquired B.Com., degree and in the year 2016, he was appointed under compassionate ground as an Office Assistant in the third respondent office on 25.02.2016. The



W.P.(MD)No.6427 of 2018

grievance of the petitioner is that the petitioner being a graduate, he is fully qualified for the post of Junior Assistant. The said post is also lying vacant. Hence, the petitioner made a representation to appoint him as a Junior Assistant. However, the said application was rejected. Hence, challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner is fully qualified to the post of Junior Assistant, the petitioner was appointed as Office Assistant, which is not sustainable and hence, prays for allowing of this writ petition.

4. The learned Government Advocate appearing for the respondents would submit that Office Assistant post was given to the petitioner based on his VIII qualification. As per G.O.155, Labour and Employment (Q1) Department, dated 10.12.2014, the qualification as on the date of application would be considered while appointing the person. Therefore, the petitioner was appointed as Office Assistant based on his qualification and the age mentioned in the compassionate ground application. Hence, the petitioner cannot be transferred to the post of Junior Assistant. Further,



W.P.(MD)No.6427 of 2018

as per G.O.Ms.560, Labour and Employment Department, dated 03.08.1977, when a candidate is applying for an appointment on compassionate ground, he will be appointed considering his age and basic qualification for the post for which he is applying. It is clear that when the petitioner applied for a post on compassionate ground, he applied for the post of Office Assistant and therefore, he was qualified to hold the post of Office Assistant and therefore, there is no irregularity or infirmity in the order passed by the second respondent and hence, prays for dismissal of this writ petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, the petitioner's father died while he was working as a Driver on 01.07.2003. Initially, the petitioner made an application on compassionate ground at the age of 15 years. Thereafter, the petitioner attained majority. After completion of higher studies, again he made an application on 25.02.2016. Normally, an application for compassionate appointment will be entertained within a period of three years. However, curiously, the petitioner's application is entertained after a lapse of a



W.P.(MD)No.6427 of 2018

decade and based on the available vacancy, appointment was given as Office Assistant. However, the petitioner claimed the post of Junior Assistant. As per G.O.Ms.560, Labour and Employment Department, dated 03.08.1977, when a candidate is applying for an appointment on compassionate ground, he will be appointed considering his age and basic qualification for the post for which he is applying. In the present case, when the petitioner made an application on compassionate ground, he applied for the post of Office Assistant. Subsequently, he acquired higher qualification and based on that, he claimed for the post of Junior Assistant, which cannot be entertained and therefore, the impugned order of rejection is perfectly in order and the same need not be interfered with.

7. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

10.02.2023

pm

Index:Yes/No

NCC:Yes/No



W.P.(MD)No.6427 of 2018

To:

WEB COPY

- 1.The Secretary,
Government of Tamil Nadu,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
- 2.The Director,
Directorate of Collegiate Education,
Chennai – 600 006.
- 3.The Joint Director,
Joint Directorate of Collegiate Education,
Tirunelveli Region,
Tirunelveli.



WEB COPY



W.P.(MD)No.6427 of 2018

M.DHANDAPANI, J.

pm

W.P.(MD)No.6427 of 2018

10.02.2023