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W.P.(MD)No.3958 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3958 of 2017

and

W.M.P.(MD)Nos.3139 and 4970 of 2017

C.Ponniah

... Petitioner

vs.

1.The Joint Director (Kallar Reclamation
and Rehabilitation Department),
Madurai-625 020.

2.The Director,
Labour and Employment Department,
Fort St.George,
Chennai-600 009.

3.C.Senthilraja

4.E.Kalaiarasi

5.S.Veerakumar

... Respondents



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W.P.(MD)No.3958 of 2017

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent, dated 23.02.2017, vide Na.Ka.H7/41137/2016, denying promotion in serial No. 2 column Nos. 10 and 11 and to quash the same and to direct the respondents to continue the petitioner in service and in accordance with law on basis of his appointment order in Na.Ka.No.H7/71120/2009, dated 10.10.2013, on the basis of the Labour and Employment Department / 2nd respondent herein in Lr.Ms/Q-1/2006, dated 16.09.2006, G.O.Ms.No.61, dated 19.07.2006 and G.O.Ms.No.42, dated 12.03.2007.

For Petitioner	: Mr.M.Joseph Thatheus Jerome
For R1 and 2	: Mr.M.Lingadurai Special Government Pleader
For R3 and 5	: No appearance



W.P.(MD)No.3958 of 2017

WEB COPY

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the proceedings of the 1st respondent, dated 23.02.2017, denying promotion in serial No.2 column Nos. 10 and 11 and to direct the respondents to continue the petitioner in service and in accordance with law on basis of his appointment order, dated 10.10.2013, on the basis of the Labour and Employment Department / 2nd respondent herein in Lr.Ms/Q-1/2006, dated 16.09.2006, G.O.Ms.No.61, dated 19.07.2006 and G.O.Ms.No.42, dated 12.03.2007.

2. The petitioner's father died on 05.05.2005 while in service. The petitioner submitted an application on 03.02.2007 within three years from the date of the death of the petitioner's father. Since the same was not considered, again the petitioner submitted an application on



W.P.(MD)No.3958 of 2017

WEB COPY

25.09.2009. However, the petitioner's application was declined, by stating that the petitioner has submitted the application after a lapse of three years, by taking the reminder application dated 25.09.2009 into account. But when the petitioner persistently approached the official respondents and submitted that his original application was submitted on 03.02.2007, which is in time. Thereafter the official respondents granted compassionate appointment. When the case of the petitioner was under consideration for promotion, the official respondents have declined to consider the promotion on the ground that the petitioner's appointment under compassionate ground was not in accordance to service rules.

3. The counter affidavit filed by the 1st respondent states that the petitioner's father has retired on 28.02.2005 itself. On the date of retirement, the petitioner's father was granted extension on his post until 31.05.2005. When the petitioner's father was serving in the extended



W.P.(MD)No.3958 of 2017

WEB COPY

period, he had died. As the petitioner's father died only during the extension period, he cannot be considered as a Government servant. Hence, compassionate appointment granted for that period is not in accordance to rules. Therefore, the petitioner was issued with a memo stating that he was appointed violating the service rules and consequently, he cannot be considered for promotion.

4. This Court is not able to accept the reasoning cited by the official respondents. The official respondents ought to have taken action on the authority who granted such compassionate appointment. Rather than taking action against the erring authority, the respondents taking action on the petitioner is absurd. Therefore, the reason stated cannot be sustained. The impugned orders are quashed. The official respondents are directed to grant promotion along with the similarly placed persons who were appointed on the same date, especially, along with the



W.P.(MD)No.3958 of 2017

WEB COPY

promotion granted to one Senthilraja. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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

13.06.2023

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W.P.(MD)No.3958 of 2017

To

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and Rehabilitation Department),
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W.P.(MD)No.3958 of 2017

S.SRIMATHY, J

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W.P.(MD)No.3958 of 2017

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