



W.P.(MD).No.24486 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24486 of 2022

K.Vinoth

... Petitioner

Vs.

1. The Director,
Social Welfare and Nutrition Meal Department,
Arunachalam Street,
Chindaripet, Chennai – 600 002.

2. The District Collector,
Office of the District Collector,
Virudhunagar District.

3. The Block Development Officer,
Office of the Vathrairuppu, (BDO)
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the order of rejection dated 20.10.2022 in Na.Ka.R3/636 /2022 of the second respondent and consequently direct the second respondent to appoint the petitioner under the compassionate scheme either in the department of District Child Development or in any other department as per the comprehensive guidelines issued in G.O(Ms)No.18, dated 23.01.2020.



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For Petitioner	: Mr.J.Anandkumar
For Respondents	: Mr.S.Shaji Bino Special Government Pleader for R1 and R2
	: Mr.G.Sivaraja Government Advocate – for R3

ORDER

The present writ petition has been filed by a legal heir of the deceased Noon Meal Organizer, challenging the order passed by the second respondent herein, wherein, the request of the petitioner for compassionate appointment has been rejected.

2. The writ petitioner's father was employed as a Noon Meal Organizer and he died in harness on 09.01.2017. The petitioner had made a request on 30.03.2017 within a period of three years seeking compassionate appointment to the said post. His request was rejected on 20.09.2017 on the ground that the petitioner being a Male heir is not eligible to be appointed as a Noon Meal Organizer, in view of the amended scheme. This order was challenged in W.P(MD) No.7868 of 2019. This Court was pleased to dismiss the writ petition on 07.02.2022. The petitioner has chosen to challenge the said order,

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in Writ Appeal in W.A.(MD) No.705 of 2022. The Hon'ble Division Bench of this Court, by an order dated 14.07.2022 had directed the District Collector to consider the request of the appellant in terms of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020.

3. In compliance with the judgment of the Hon'ble Division Bench of this Court, the second respondent herein has reconsidered the request of the petitioner and passed the present impugned order rejecting his request on the following grounds:

1. The petitioner's father was working as ex-cadre employee under the Special time Scale of pay;

2. As per G.O(Ms)No.48, Social Welfare and Women Empowerment Department, dated 18.08.2021, only woman staff could be appointed as a Noon Meal Organiser and therefore, the petitioner being a male heir could not make a claim for any appointment as a Noon Meal Organizer; and

3. The deceased employee had left behind him two female heirs and when they have not made a claim to the said employment, the petitioner is seeking employment in the post of Noon Meal Organizer in violation of G.O. (Ms)No.48, dated 18.08.2021.



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4. The said order is under challenge in the present writ petition.

5. According to the learned counsel appearing for the writ petitioner, though the petitioner is not entitled to be considered for any appointment as a Noon Meal Organizer, in view of G.O(Ms)No.48, dated 18.08.2021, his request for compassionate appointment may be considered by the second respondent herein in any other Department for suitable post, in view of the orders passed by the Division Bench of this Court, on 14.07.2022.

6. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 reiterated the contents of the impugned order and sought to sustain the said order. He further pointed out that the petitioner's father was working as ex-cadre and therefore, the request of the petitioner to get accommodated himself in any other Government service is not legally sustainable.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.



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8. It is not in dispute that after G.O(Ms)No.48, Social Welfare and Women Empowerment Department, dated 18.08.2021, male staff could not be appointed as a Noon Meal Organizer.

9. Therefore, the order of the second respondent herein rejecting the request of the writ petitioner for appointment as a Noon Meal Organiser has to be sustained. This Court would also like to clarify that the petitioner's father having worked as an ex-cadre employee under a Government Scheme, the legal heir of the said deceased employee would not be entitled to any Government employment other than an employment under any other Government Scheme.

10. In view of the above said facts, the order impugned in the writ petition is set aside. The second respondent is directed to include the name of the writ petitioner in the seniority list maintained by the second respondent Office. The second respondent is further directed to consider the request of the petitioner for compassionate appointment under any other Government Scheme based upon the seniority and qualification.



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11. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs.

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