



W.A.(MD)No.470 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD)No.470 of 2023

A.Emmanuvel

... Appellant

Vs.

1.The Director,  
Department of Public Health and Preventive Medicine,  
No.359, Anna Salai, Chennai-6.

2.The Deputy Director,  
Health Services & Family Welfare Department,  
Aranthangi, Pudukkottai District.

...Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.10928 of 2022, dated 11.11.2022 on the file of this Court.

For Appellant : Mr.A.Aruljenifer

For Respondents : Mr.R.Baskaran,

Additional Advocate General,  
assisted by Mr.S.P.Maharajan,  
Special Government Pleader



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## **JUDGMENT**

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

The order dated 11.11.2022 passed in W.P.(MD)No.10928 of 2022 is sought to be quashed in the present Writ Appeal.

2.The appellant instituted the Writ proceedings challenging the order of rejection dated 11.03.2022 on the ground that the step mother of the appellant was employed in Government services at the time of the death of the father of the appellant. The father of the appellant was also a Government employee died on 21.07.2008, while he was in service. Admittedly, an application was submitted on 07.05.2009 and the impugned order of rejection was passed on 11.03.2022.

3.The learned counsel appearing for the appellant mainly contended that the scheme of compassionate appointment provides a scope to consider the claim of the appellant on the ground that the step mother is not maintaining the family. However, the learned Single Judge has not considered this aspect and thus, this appeal has been instituted.



4.The learned Additional Advocate General appearing for the respondents raised an objection by stating that once anyone of the legal heir of the deceased employee employed gainfully, then the family is not entitled to avail the scheme of compassionate appointment.

5.The scheme of compassionate appointment is a concession and the scheme being special one cannot be extended in violation of the terms and conditions stipulated in the scheme. The very purpose and object of the scheme is to mitigate the circumstances arisen on account of the sudden death of an employee. Therefore, the penurious circumstances existing in the family of the deceased employee and other requirements in consonance with the terms and conditions of the schemes are to be verified for the purpose of extending the benefit of appointment on compassionate ground.

6.The scheme of compassionate appointment is violative of Articles 14 and 16 of Constitution of India. All the appointments are to be made strictly under the Constitutional schemes and through open competitive process by following the procedures as contemplated. Equal opportunity in public employment is the Constitutional mandate and thus, any other special scheme introduced for the welfare of the employees is to be granted scrupulously by following the terms and



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conditions stipulated and any violations would lead to unconstitutionality and deprive the constitutional rights of the lakh and lakh of persons, who are all aspiring to secure public employment through open competitive process.

7.In the present case, the step mother of the appellant was admittedly employed in Government services and more so, she is receiving family pension consequent to the death of her husband. The learned Single Judge has considered the facts and made a finding that compassionate appointment cannot be treated as a mode of recruitment. The over all facts that the petitioner was aged about 42 years and having two children were also taken note of by the learned Single Judge.

8.In view of the above, we do not find any acceptable reason for the purpose of interfering with the order impugned in the present Writ Appeal. Therefore, the order dated 11.11.2022 passed in W.P.(MD)No.10928 of 2022 stands confirmed and this Writ Appeal stands dismissed. No costs.

**(S.M.S., J.) & (V.L.N., J.)**

**21.11.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
*Yuva*



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To

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- 2.The Deputy Director,  
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**S.M.SUBRAMANIAM, J.**

**AND**

**V.LAKSHMINARAYANAN, J.**

*Yuva*

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