



WEB COPY



WP.No.5416 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.5416 of 2021

and

WMP.No.6014 of 2021

M.Jayaseelan

...

Petitioner

Vs.

1. The Commissioner of Municipal
Administration, No.78,
Urban Administrative Building,
Santhome High Road,
Chennai-28.

2. The Commissioner,
Office of the Mettur Municipality,
Mettur Dam,
Salem District - 636 401.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondent dated 9.1.2021 in Na.Ka.No.4035/2019/H1 and quash the same and consequently direct the respondents to forthwith appoint the petitioner on compassionate grounds.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.T.Chezhiyan

Additional Government Pleader for R1

: Mr.L.P.Mauriya for R2



WEB COPY

ORDER

The petitioner, who is said to be the adopted son of the deceased government servant, Perumal has filed this Writ Petition challenging the order of the 2nd respondent dated 09.01.2021 in Na.Ka.No.4035/2019/H1 and consequently to direct the respondent to forthwith appoint the petitioner on compassionate grounds.

2. The petitioner claims himself as the adoptive son of one Perumal who worked as a sanitary worker with the 2nd respondent. He died on 05.04.2018 while in harness. Thereafter, the petitioner claimed himself as the legal heir of Perumal in his alleged capacity as his adoptive son. Since his claim was not accepted by the respondents, he filed O.S.No.112 of 2018 and got a decree declaring himself as the adoptive son of the late Perumal and thereafter, on the direction of the Court, he obtained a legal heir certificate. Subsequent to that, the terminal benefits of late Perumal were settled to the petitioner. And thereafter, the petitioner made a representation seeking compassionate appointment. But the same was rejected on 29.01.2021 and that is under challenge in this Writ Petition.

3.Heard, Mr.K.Selvaraj, learned counsel for the petitioner and



Mr.T.Chezhiyan, learned Additional Government Pleader for the first respondent and Mr.L.P.Mauriya for the second respondent and perused the materials available on record.

4. Mr.K.Selvaraj, learned counsel for the petitioner submitted that the only reason for which the compassionate appointment was not granted was only in view of the reference made to the Hindu Adoption and Maintenance Act of 1956 and not for any other reasons.

5.On perusal of the said impugned order, it has been stated that as per the Hindu Adoption and Maintenance Act 1956, no person who had completed the age of 15 years and above can be taken in adoption. Since the Will referred to in the order states that the petitioner was adopted when he was 37 years old, the adoption itself is not within the ambit of the Hindu Adoption and Maintenance Act-1956.

6.The learned counsel for the petitioner submitted that the petitioner has been adopted even during his childhood itself and hence, the reasons stated in the impugned order are not correct. It is further submitted that the petitioner is



considered as the adoptive son of late perumal and only by accepting the same the terminal benefits have been disbursed to him.

7. Mr.T.Chezhiyan, learned Additional Government Pleader for the first respondent submitted that the compassionate appointment scheme does not have any provision to give any appointment to the adoptive children of the deceased employee.

8. The petitioner, who has not taken any steps to declare his status as the adoptive son of the late Perumal and has chosen to file a suit itself after the death of Perumal, could get all the terminal benefits of the deceased on the strength of the decree obtained from the court; now he has come out with an application to consider him for a compassionate appointment. The petitioner, who is said to be 37 years old in the year 2018 could now be 43 years old. The compassionate appointment scheme cannot be made a mockery in the hands of greedy people. It is difficult to believe that the petitioner was wholly dependant upon the income of late Perumal even while he was 37 years old and now he cannot be considered for appointment on compassionate grounds.



WP.No.5416 of 2021

In the result, I do not find any merit in this petition and accordingly, this writ petition stands **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

08.02.2024

Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs

To

1. The Commissioner of Municipal
Administration, No.78,
Urban Administrative Building,
Santhome High Road,
Chennai-28.
2. The Commissioner,
Office of the Mettur Municipality,
Mettur Dam,
Salem District - 636 401



WEB COPY



WP.No.5416 of 2021

R.N.MANJULA, J.
jrs

W.P No.5416 of 2021
and
WMP.No.6014 of 2021

08.02.2024