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W.P.No.5537 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5537 of 2022
and W.M.P.No.5638 of 2022

K.Arunachalam

... Petitioner

-Vs-

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.
2. The District Collector,
Office of the Collectorate,
Chennai 600 001.
3. The Director of Medical and Rural Health Services,
Teynampet,
Chennai 600006.
4. The Director of Medical Education,
Kilpauk,
Chennai 600010.
5. The Dean,
Rajiv Gandhi Government General Hospital,
Poonamallee High Road,
Chennai 600 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order letter (P) No.1482, Public Health and Family Welfare



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(AD2) Department dated 26.12.2020 passed by the first respondent and quash the said Impugned order and consequently directing the Respondents to appoint the Petitioner's 2nd daughter A.Krishnakumari in a Suitable post.

For Petitioner : Mr.R.Thirugnanam

For Respondents : Mr.R.Neelakandan
Additional Advocate General
assisted by
Mrs.M.Keerthika
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 26.12.2020, thereby rejected the request made by the petitioner seeking appointment on compassionate ground.

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

3. The petitioner's wife, while she was working as Staff Nurse in Rajiv Gandhi Government General Hospital, in corona ward, died due to Covid-19 virus. While she was in duty in Covid ward, she was tested positive and admitted in the same hospital for treatment and unfortunately she died on 14.06.2020 at the age of 53 years, leaving behind two daughters and the



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petitioner as her legal heirs. As per the announcement of the Central Government, the Hon'ble Chief Minister of Tamil Nadu forwarded a proposal to claim insurance from the Central Government. M/s New India Assurance Company Limited credited a sum of Rs.50 Lakhs into the petitioner's account, on the demise of his wife due to Covid 19, while she was in duty in the Corona Ward. The petitioner's elder daughter is working as Assistant Engineer and got married. His younger daughter is qualified with B.A., B.L and enrolled as an Advocate in the Bar Council of Tamil Nadu and Puducherry. She is also employed at M/s Hinduja Housing Finance Ltd., as Legal Manager. She got married to one S.Sathish, who is also an Advocate and practicing at Chennai.

4. While being so, the petitioner, being the husband of the deceased made an application seeking appointment on compassionate ground, on the strength of the special announcement by the Hon'ble Chief Minister of Tamil Nadu giving monetary incentives and employment opportunities for dependents/family members of the front-line workers during Covid-19. However, the said application was not considered and as such, the petitioner filed a writ petition before this Court. This Court also issued direction and after a contempt petition came to be filed, the request made by the petitioner was rejected. Hence, this writ petition.



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5. The learned counsel for the petitioner would submit that the first respondent failed to consider the announcement made by the Hon'ble Chief Minister of Tamil Nadu by the Announcement No.048 dated 22.04.2020. There is absolutely no reference in the order impugned in this writ petition, while rejecting the claim of the petitioner seeking appointment on compassionate ground. He also relied upon the Judgment of the Hon'ble High Court of Delhi in ***W.P.(C).No.8956 of 2020 dated 22.07.2021*** in the case of ***Najma Vs Government of NCT of Delhi***, wherein it was held that the promise/assurance/representation given by the Chief Minister clearly amounts to an enforceable promise, the implementation of which ought to be considered by the Government. Good governance requires that promises made to citizens, by those who govern, are not broken, without valid and justifiable reasons. Further, it was held that the assurance/promise given by the CM is enforceable, both on the basis of the doctrines of promissory estoppel and legitimate expectation and the relief would have to be moulded keeping in mind the various factors.

6. He also submitted that this Court, by an order dated 25.07.2022, passed an interim order in the present writ petition, in view of the order passed



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by the Hon'ble Division Bench of this Court that the matter will receive a sympathetic consideration of the State, particularly in case of the needy families who lost their bread-earners. Both compensation and compassionate appointments may be considered by the State and appropriate rules or a scheme be framed in such regard. In compliance of the directions, so far no guidelines or scheme has been framed by the State Government. Therefore, this Court directed the respondents to frame necessary guidelines. However, the said interim direction has not been complied with so far. The Government of Tamil Nadu is yet to frame the guidelines or scheme in order to comply with the directions issued by the Hon'ble Division Bench of this Court as per the announcement made by the Hon'ble Chief Minister of Tamil Nadu.

7. A perusal of the counter and the submissions made by the learned Additional Advocate General appearing for the respondents revealed that as announced by the Hon'ble Chief Minister of Tamil Nadu, the petitioner was paid a sum of Rs.50 Lakhs exgratia in Pradhan Mantri Garib Kalyan Package Insurance Scheme on 28.07.2020, pursuant to the demise of his wife due to Covid - 19, while she was working in Corona Ward. That apart, the petitioner's younger daughter A.Krishnakumari was given employment in entry level post



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as Assistant in the National Health Mission, Chennai. However, she did not join duty in the posted place till date. That apart, the conditions laid down for compassionate appointment as per G.O.Ms.No.18, Labour and Employment Department dated 23.01.2020 governs the issue. Therefore, though the Hon'ble Chief Minister of Tamil Nadu made certain announcements, the appointment should be made based on the eligibility of legal heirs which includes indigent circumstances of the deceased family and it cannot be claimed as a matter of right. As per the Government Order, the pre-requisite qualification for employment among others is the indigent circumstances of the family. In fact, the petitioner's family is not under indigent circumstances. The petitioner has two daughters and his first daughter is working as Assistant Engineer and got married and insofar as the second daughter is concerned, she is enrolled as an Advocate and working in a private company as Legal Manager and she is receiving salary of Rs.35,000/-. Further, the petitioner is also a retired Air Force Officer and receiving monthly pension of Rs.22,847/-.

8. The intention of the press statement is that the legal heir of the family of the deceased are not left in lurch and that they are not only eligible for terminal benefits but also they can apply for compassionate ground



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appointment with all particulars. If such an application is made, the indigent circumstances of each of the family is basically taken into consideration and the application on compassionate ground would be processed as per the rules in force.

9. The petitioner's family, since it is not under indigent circumstances, is not at all eligible for appointment on compassionate ground. Hence, the request made by the petitioner was rightly rejected and this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits and is liable to be dismissed.

10. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

18.03.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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To

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