



W.P.No.30034 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.30034 of 2012

P. Pooventhiran

...
Petitioner

Vs.

1. The State of Tamil Nadu
Rep.by the Secretary to Government,
Labour & Employment Department,
Secretariat, Chennai 600 009.
2. The Director of Elementary Education
College Road,
Chennai 600 006.
3. The District Educational Officer,
Gobichettipalayam,
Erode District, Erode.
4. The Assistant Elementary Educational Officer,
Thookkanaickenpalayam,
Gobichettipalayam Taluk,
Erode District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the



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records pertaining to the proceedings dated 03.09.2012 made in Na.Ka.No.3161/A1/2012 on the file of the 3rd respondent and proceedings dated 29.08.2012 made in Na.Ka.No.944/A1/2012 on the file of the 4th respondent and quash the same and consequently direct the respondents to appoint the petitioner on compassionate ground in the place of his father late K.S.Periyathambi who died in harness on 10.12.2000 by considering his application dated 16.12.2001, 06.11.2007 and 26.04.2012.

For Petitioner : Mr.N.Manokaran
For Respondents : Mrs.P.Vijaya Devi
Government Advocate

ORDER

This writ petition has been filed to call for the records pertaining to the proceedings dated 03.09.2012 made in Na.Ka.No.3161/A1/2012 on the file of the 3rd respondent and proceedings dated 29.08.2012 made in Na.Ka.No.944/A1/2012 on the file of the 4th respondent and quash the same and consequently direct the respondents to appoint the petitioner on compassionate ground in the place of his father late K.S.Periyathambi who died in harness on 10.12.2000 by considering his application dated 16.12.2001, 06.11.2007 and 26.04.2012.



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2. The learned counsel for the petitioner submitted that the petitioner's father was working as an Assistant Teacher in Panchayat Union Elementary School, Kongarpalayam and he died in harness on 10.12.2000 at the age of 53 years leaving behind his wife, petitioner and three sons. The petitioner has completed B.Com., D.T.Ed., and registered his name in the employment exchange as early as on 23.06.2004 in Reg.No.5955/2004 and it has been renewed on 31.03.2012. Thereafter, the petitioner submitted a petition dated 16.12.2001 to the 3rd respondent through 4th respondent for appointment of compassionate ground. Further, his application dated 16.12.2001 submitted to the 3rd respondent has not been processed on the ground that the State Government had imposed ban on filling up of posts in G.O.Ms.No.212 Personnel and Administrative Reforms (P) Department dated 29.11.2001. Similarly, the Government had also extended the ban on filling up of posts by compassionate appointment in Letter (Ms) No.20 P & AR (G) Dept., dated 01.03.2002.

3. He further submitted that in view of the G.O.Ms.No.212 dated 29.11.2001, his application dated 16.12.2001 seeking compassionate appointment has not been considered. The petitioner has also filed



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W.P.No.18748 of 2012 in which this Court has passed an order dated 19.07.2012 by directing the 4th respondent to consider the application submitted by the petitioner on 16.12.2001 on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of the order. In compliance to the direction of this Court the 4th respondent has passed an order dated on 29.08.2012 stating that there is no such application dated 16.12.2001 submitted by the petitioner and pending before the 3rd respondent and thereby rejected his request. The said order is under challenge in the present writ petition.

4. Counter affidavit has also been filed by the third respondent way back in the year 2013 and it is relevant to extract paragraph No.7 of the counter affidavit and the same is extracted as hereunder:-

“7. It is submitted that based on the orders of this Hon'ble Court, the third respondent has passed orders vide R.C.No.3161/A1/2012 dated 03.09.2012. Followed by the order of the third respondent, the fourth respondent also passed an order in R.C.No.944/A1/2012 dated 29.08.2012. (Copy enclosed). It is further submitted that in the order of the fourth respondent, it was clearly mentioned that the writ petitioner has not submitted any applications in the year 2001.”



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5. To refute the above categorical stand in the counter affidavit that there is no application dated 16.12.2001 submitted by the petitioner for appointment on compassionate ground, there is no iota of material placed before this Court by the petitioner. In other words, the petitioner has not substantiated his case by furnishing before this Court, even a copy of the acknowledgment for having made his application dated 16.12.2001.

6. Hence, the relief sought for by the petitioner in this writ petition cannot be entertained by this Court and accordingly, the writ petition stands dismissed. No costs.

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Index : Yes/No

Speaking Order : Yes/No



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To:

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J. SATHYA NARAYANA PRASAD, J.



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