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WP.No.34400 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM:

THE HONOURABLE MRs.JUSTICE R.KALAIMATHI

WP.No.34400 of 2012
MP.Nos.1 of 2012 and 1 of 2014

P.Santhakumar

Petitioner

Vs

1. Government of Tamil Nadu, Secretary to Government
Municipal Administrative and Water Supply Department, Chennai-9
2. The Commissioner, Corporation of Chennai, Chennai-3
3. The Zonal Officer-3, Corporation of Chennai, Chennai-12 Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the order dated 21.02.2011 in Letter Z.O.3 Na.Ka.No.B3/398/2011 of the 3rd Respondent and to quash the same and to direct the Respondents to provide employment on compassion grounds to the Petitioner consequent to the death of his father, P.Penchilliah, SMEP Worker, on 24.02.2007, while in service.

For Petitioner : Ms.Fathima Hussain

For Respondents : Mr.S.Rajesh-GA-R1
S.Gopinathan, Standing Counsel-RR2 and 3

ORDER

1. This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records relating to the order, dated 21.02.2011 in Letter Z.O.3



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Na.Ka.No.B3/398/2011 of the 3rd Respondent and to quash the same and to direct the Respondents to provide employment on compassionate grounds to the Petitioner, consequent to the death of his father, P.Penchilliah, SMEP Worker, on 24.02.2007, while in service.

2. The facts of the case, led to filing of this Writ Petition are that the Petitioner is the son of the deceased, Penchilliah, who died on 24.02.2007, while he was serving as a SMEP Worker in the Public Health Wing of Chennai Corporation, leaving behind him, his wife, a son, who is the Petitioner herein and two elder daughters. The Petitioner was aged about 14 years old at the time of death of his father and he submitted an application dated 20.07.2007, to the 2nd Respondent, seeking appointment on compassionate grounds. The said application was rejected by the impugned order, stating that as on the date of his application, the Petitioner did not attain the age of 18 years. Hence, contending that his legitimate claim had been rejected on untenable grounds and his representation, seeking appointment on compassionate grounds is not considered so far, this Writ Petition has been filed, seeking the relief as stated above.
3. This Court heard Ms.Fathima Hussain, the learned Counsel for the Petitioner, Mr.S.Rajesh, the learned Government Advocate for the 1st Respondent and Mr.S.Gopinathan, learned Standing Counsel for the Respondents 2 and 3,
4. The learned counsel for the Petitioner would submit that the application, seeking appointment on compassionate grounds was made within the



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stipulated time of three years, that is on 20.07.2007 and that the object of offering employment on compassionate grounds is to enable the family of the deceased to get rid off the financial crisis, which is being faced from the date of death of a deceased sole bread-winner and that as per the Government Letter No.66813/Q1/91-3, Labour and Employment, dated 22.11.1991, since there is no bar in appointing a candidate on compassionate grounds below the age of 18 years, the Petitioner is eligible to get appointment.

5. The learned Government Advocate for the 1st Respondent would submit that the father of the Petitioner died on 24.02.2007, while he was working as a SMEP Worker in the Public Health Wing of Corporation of Chennai. As per GO.Ms.No.112, Labour and Administration Reforms Department, dated 23.08.2005, a candidate should have attained the age of 18 years at the time of making his application, seeking appointment on compassionate grounds. The learned counsel would further submit that though the application submitted by the Petitioner dated 20.07.2007, seeking appointment on compassionate grounds to the 2nd Respondent was made within the stipulated period of three years, but, as per Rule 5(ii) of the Government Letter No.86/Q1/2010-2, dated 04.05.2010, which expelled the rules relating to age limit, made in the Government Letter, dated 22.11.1991 and stipulates that a candidate should have attained the age of 18 years at the time of making his application, his application was rejected by the impugned order, on ground that the Petitioner did not attain the age of 18 years as on the date of his application. Hence, the Petitioner is not entitled to get appointment in



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view of the said Government Letter, dated 04.05.2010 and as per the prevailing Rules.

6. This Court considered the submissions of the learned counsel on either side and also perused the materials placed on record.
7. The admitted facts are that the Petitioner is the son of the deceased, who died on 24.02.2007, while he was working as a Worker in the Government. The Petitioner has made the application, seeking appointment on compassionate grounds on 20.07.2007. He was aged 14 years old at the time of death of his father and making his application. Now, the question that arises for consideration is as to whether the Petitioner is eligible to get appointment on such admitted facts and as per the prevailing Rules and Law.
8. An appointment to a public post has to be made only on fulfilling the Rules and Law prevailing with regard to such appointment on compassionate grounds. The Honourable Supreme Court, in **2008 11 SCC 384 (Mumtaz Yunus Mulani Vs. State of Maharashtra)**, has held that an appointment on compassionate grounds is not a source of recruitment, but it is only to enable the family of the deceased to get over the financial crisis. The financial position of the family needs to be lifted only on the basis of the provisions contained in the scheme.
9. In this case, the Petitioner has relied on the GO of the year 1991. It is true that as per the GO of the year 1991, there is no bar in appointing a candidate on compassionate grounds below the age of 18 years. However,



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subsequently, GOs and Rules have been issued in the year 2005 and 2010, amending the rules regarding appointment on compassionate grounds, as stated by the learned Government Advocate for the 1st Respondent. Further, in 2020, GO.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020 came to be issued and by the said GO, the Government has issued comprehensive guidelines as to the appointment on compassionate grounds.

10.As per the prevailing Rules, the major requirements to provide appointment on compassionate grounds are that such an application, seeking appointment on compassionate grounds shall be presented within a period of three years from the date of death of a deceased Government Servant and the minimum age of the Applicant should be 18 years at the time of making such an application.

11.In the case on hand, the father of the Petitioner died on 24.02.2007. The Petitioner, who is the son of the deceased, submitted the application for appointment on compassionate grounds on 20.07.2007, which is within the three years stipulated period. But, admittedly, the Petitioner was aged about 14 years old on the date of the application, in other words, he did not attain the age of 18 years at the time of making his application, as prescribed in the above said GO and prevailing Rules. Based on that and the prevailing Rules, his application was rightly rejected by the impugned order on the ground that the Petitioner did not attain the age of 18 years at the time of presenting his application.



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12.Thus, based on the above said discussions and the legal position, the Petitioner herein has failed to make out a case and hence, the impugned order does not warrant any interference by this Court and accordingly, this Writ Petition is liable to be dismissed.

13.In fine, this Writ Petition is dismissed. No costs. Consequently, the connected MPs are closed.

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Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Neutral Citation: Yes/No

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