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W.P.No.9815 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.9815 of 2022

and

W.M.P.No.15199 of 2022

J.Anand Kumar

... Petitioner

-Vs-

1.The District Collector,
Collectorate, Erode-638 011,
Erode District.

2.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.

3.The Tahsildar,
Gobichettipalayam Taluk,
Erode District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents herein to consider and pass orders on the W.P.No.26952 of 2013 vide order dated 04.03.2015.

For Petitioner : Mr.J.Arokhiaaraj



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For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

This Writ Petition has been filed for direction directing the respondent to consider and pass orders as directed by this Court in W.P.No.26952 of 2013.

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

3. The petitioner's father was employed in the third respondent office as Village Assistant. While he was in service, he died on 28.03.2003, leaving behind the petitioner, his mother and four daughters as his legal heirs. Immediately, after his demise, his mother submitted an application on 21.05.2003 seeking employment under compassionate ground. However, there was a ban on filling up of posts and as such, her application was not considered. After lifting of ban, his mother died on 12.01.2008. Thereafter, the petitioner submitted an application seeking appointment on compassionate ground. The first



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respondent rejected the application, by an order dated 16.02.2010, on the ground of delay and also there is no proof to show that her mother submitted the application on 21.05.2003. It was challenged before this Court in W.P.No.26952 of 2013. This Court, by an order dated 04.03.2015, set aside the order passed by the first respondent and considered the application submitted by the petitioner for compassionate ground appointment in the light of the earlier application on merits within a period of four months. However, the said direction was not complied with. Therefore, the petitioner filed this writ petition.

4. A perusal of the counter filed by the first respondent reveals that though the petitioner was informed by a communication dated 19.10.2015 stating that as against the order passed by this Court in W.P.No.26952 of 2013, dated 04.03.2015 they were about to file an appeal, the first respondent did not file an appeal. In order to comply with the order passed by this Court, the petitioner was called upon to attend an enquiry. During enquiry, he made statement that he has been working as a teacher in a private school and drawing the salary. Therefore, his family is not indigent condition. Hence, his request to



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appoint him on compassionate ground was not considered. If at all the order passed by this Court was not complied with by the first respondent, the petitioner would have approached this Court by way of contempt. The petitioner, now, is aged about 43 years. That apart, he is working as a teacher and drawing a reasonable salary to maintain his family. After a period of 21 years, the petitioner cannot be appointed on compassionate ground.

5. As per G.O.Ms.No.18 Labour and Employment Department, dated 23.01.2020, the compassionate ground appointment cannot be claimed as a matter of right. It is a scheme devised by the Government to help the needy legal heirs, whose lives are at distress after the Government Servant dies in harness.

6. In the case on hand, admittedly, the father of the petitioner died on 28.03.2003. The petitioner and his family members have been surviving for these long years. If at all the petitioner and his family members starved for their livelihood, they would have approached this Court by way of contempt for non-compliance of the order passed by



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this Court. After a period of 7 years from the date of the order passed by this Court, the petitioner approached this Court by way of this writ petition. Therefore, the representation submitted by the petitioner cannot be considered and this writ petition is devoid of merits and it is liable to be dismissed.

7. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

02.01.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
Lpp

To

1.The District Collector,
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2.The Revenue Divisional Officer,
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3.The Tahsildar,
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