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W.P.No.8376 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.8376 of 2007

K.Nazeer Ahmed

...Petitioner

Vs.

- 1.The Government of Tamilnadu
represented by, Secretary to the Government,
Public Health and Family Welfare Department,
Fort St. George, Chennai-9.
- 2.The Director of Public Health and Preventive
Medicine, Chennai-6.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of **Certiorarified mandamus**, to call for the records relating to the impugned order of the first respondent in G.O.(2-D) No.6, Public Health and Family Welfare Department dated 11.02.2002 and quash the same and direct the respondents to continue the applicant in service



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with all attendant benefits.

For Petitioner : Mr.C.P.Sivamohan

For Respondent : Mr.K.Tippu Sultan

Government Advocate

ORDER

The brief facts that are relevant for disposal of this writ petition are as under:

The father of the petitioner namely J.Krishanmoorthy while working as Lab Technician Grade-II in Food Analysis Laboratory, Chennai died on 07.11.1978 little prior to that the mother of the petitioner who was worked as Medical Record Techincian in Government General Hospital, Chennai, also died on 21.07.1978. The elder sister of the petitioner namely K.Saleemabee, was given compassionate appointment on account of the death of the petitioner's mother and was appointed as Junior Assistant in Government General Hospital, Chennai on 17.09.1982. While so, the petitioner made an application on 07.10.1985 i.e., almost seven years after the death of his father seeking compassionate appointment consequent upon the death of his father. The said application was considered by the 2nd respondent and the petitioner was appointed as Junior Assistant through proceedings dated 01.08.1988. It was thereafter, the issue of regularization of service of



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the petitioner came up for consideration in the said process, it was noticed that the petitioner has suppressed the fact of his sister securing an appointment on compassionate grounds and accordingly, the issue was enquired into detail. In the said process, the petitioner has admitted about the fact of his sister securing an employment on compassionate grounds. In view of the same, the appointment order issued in favour of the petitioner on 01.08.1988 came to be cancelled through impugned proceedings dated 11.12.2002. It is aggrieved by the said order dated 11.02.2002 the petitioner approached the then Tamil Nadu Administrative Tribunal by filing the Original Application vide O.A.No.1064 of 2002. In the said O.A originally an interim stay was granted by order dated 05.03.2002. However, subsequently, on transfer of the said original application to this Court the said interim stay was vacated. Only the reason assailing in the impugned order is that the petitioner has suppressed the appointment, secured by his elder sister on compassionate grounds and also about gainful employment of one of the family members while securing the appointment on 01.08.1988.

2.The learned counsel for the petitioner contended that the petitioner has worked for more than 14 years and therefore, the cancellation of



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the appointment of the petitioner after completing 14 years of service is arbitrary and illegal. In support of his contention he also placed reliance on Division Bench decision of this Court in W.A.No.678 of 2021. He also further contended that the petitioner after submitting his initial application on 07.10.1985 has subsequently submitted another representation in the year 1986 duly bringing to the notice of the 2nd respondent about the compassionate appointment secured by his sister and therefore, questioning of suppression of facts by the petitioner does not arise. He also further submitted that the respondents have in fact suppressed about the said representation submitted by the petitioner in the year 1986 while issuing the order of appointment dated 01.08.1988.

3. On the other hand, Mr. Tippu Sultan, learned Government Advocate, appearing for the respondents having produced the original records submitted that the petitioner has deliberately suppressed the appointment of his sister on Compassionate grounds and also submitted that the petitioner himself admitted during the course of enquiry about suppression of fact as early as in the year 1986 and it is only thereafter, after thoroughly looking into the matter and coming to conclusion that the petitioner has deliberately



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suppressed the facts and thereby secured the appointment on compassionate grounds by playin fraud the impugned order came to be issued cancelling the appointment issued in favour of the petitioner. He also further produced the original records dealing with appointment of the petitioner on compassionate grounds. This Court also perused the original records.

4.Though the learned counsel for the petitioner submitted that the petitioner has already informed about the compassionate appointment secured by his sister in the year 1986. There is no material that is placed before this Court in support of such contention, nor the said representation is placed before this Court. In the absence of any proof of having submitted any such representation in the year 1986, the respondents cannot be blamed of having suppressed about such representation. Admittedly, the application dated 07.10.1985 submitted by the petitioner, petitioner has not disclosed about the employment secured by the elder sister. In the absence of any material placed before this Court is not in a position to deny the valuable reason advanced by the respondent in the impugned order. Then coming to the contention of the learned counsel for the petitioner that the petitioner has allowed to continue for about 14 years and thereafter, accordingly.



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To
The Principal,
The Office of the Principal,
Leather Technology Training Centre,
Taramani, Chennai- 600 113.

MUMMINENI SUDHEER KUMAR, J.

vsn



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