



W.P.No.17945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

CORAM:

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

W.P.No.17945 of 2022

M.Karuppan

... Petitioner

Vs.

- 1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai 600 009
- 2.The Director/Commissioner,
Rural Development and Panchayat Raj Department,
Panakal Building,
Saidapet,
Chennai 600 015
- 3.The District Collector,
Dharmapuri District
- 4.The Project Director cum Member Secretary,
Rural Development Agency,
Dharmapuri,
Dharmapuri District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider representation of the petitioner dated 26.11.2021 and regularize the services of the petitioner's deceased father, M.Mari in the post of Office Assistant from the initial date of appointment with all



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consequential monetary, pensionary and service benefits as was done for identically situated individuals as per G.O.Ms.No.57 dated 20.06.2013 and W.P.No.8393 of 2017 dated 05.06.2017 and W.A.No.1062 of 2017 dated 12.06.2018 and consequently transfer and appoint the petitioner in Rural Development and Panchayat Raj Department in any of the posts which is commensurate with his educational qualifications.

For Petitioner : M/s.A.Pramila

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed for direction to the respondents to consider the representation submitted by the petitioner dated 26.11.2021 seeking regularisation of his father's service in the post of Office Assistant and also his appointment in Rural Development and Panchayat Raj Department.

2. The petitioner's father was originally appointed in the Department of Revenue with effect from 08.10.1971 through employment exchange as Masalchi. Thereafter, he was appointed as Watchman. Subsequently, he was promoted to the post of Office



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Assistant. His service was originally in the Dharmapuri District Development Corporation. Subsequently, as per GO.No.14 Rural Development and Panchayat Raj Department dated 21.01.2000, it was ordered that in respect to all other districts, there were only Development Agencies whereas with respect to Dharmapuri District alone, there was Development Corporation. Subsequently, as per GO.No.197 dated 27.07.2000, power was granted to the third respondent to disburse the salary and all other benefits to the erstwhile employees of the Dharmapuri District Development Corporation Limited. Accordingly, by the communication dated 22.04.2003, the petitioner's father was absorbed as Office Assistant in the vacant post of Office Assistant in the District Development Agency, Dharmapuri. Unfortunately, his father died on 07.05.2003 while he was working in Dharmapuri District Development Agency. After his demise, the petitioner submitted representation for regularisation of his service as well as seeking compassionate appointment. It was rejected and as such, the petitioner filed writ petition before this Court in WP.No.8393 of 2017 and the writ petition was allowed. It was also confirmed in the writ appeal.



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3. Heard, the learned counsel appearing on either side.

4. On perusal of the order passed by this Court in WP.No.8393 of 2017, this Court set aside the order rejecting the representation seeking compassionate appointment and directed the Director, Rural Development and Panchayat Raj Department to consider the case of the petitioner for appointment to a suitable post on compassionate ground. Aggrieved by the same, writ appeal was filed in WP.No.1062 of 2017, wherein the Hon'ble Division Bench of this Court by an order dated 15.09.2017, dismissed the writ appeal observing as follows:

“8. Though, it is the contention of the learned Special Government Pleader appearing for the appellants that when the writ petitioner's father was not a permanent member of the Government service as his sad demise took place on 07.05.2003, cannot confer any benefit to the petitioner for compassionate appointment, for the simple reason that on 07.05.2003, the services of his father was not regularised, in an identical situation in G.Ashokan vs. The District Collector, Tiruvannamalai District, Tiruvannamalai and another in



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W.P.No.413/2013 dated 22.04.2014, a Division Bench of this Court has set aside the dismissal order of the Single Judge by citing that existence of the particular post from 8.10.1986 for about 25 years is proved by the conduct of the respondents in allowing the petitioner therein to continue in service. The Division Bench of this Court has also cited a decision of the Hon'ble Apex Court in State of Jharkand v. Jitendra Kumar Srivastava reported in AIR 2013 SC 3383 in which it has been held that it is the settled proposition of law that right to get actual salary/leave salary and retirement benefits are right to property as per Article 300 A of the Constitution of India. Such benefits cannot be deprived to person or legal heirs, who are eligible to receive the same. In the instant case also, the appellants have held that there is no such regularisation as on the date of the death of the father of the writ petitioner. But, according to the 1st respondent herein/Writ Petitioner, a Government Order in G.O.Ms.No.57 dated 20.06.2013 has been issued for regularising the services of those who were absorbed in the Rural Development and Panchayat Raj Department and in that process, several other persons have been absorbed. The petitioner's father is also identically placed like those candidates who were absorbed vide



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G.O.Ms.No.57 dated 20.06.2013. Further, the petitioner's father was originally appointed as Masalchi on 8.10.1971 and subsequently, he was promoted to the post of Office Assistant vide proceedings dated 26.02.1977 and by proceedings dated 22.04.2003, the petitioner's father was also absorbed in the vacant post of Office Assistant in the District Development Agency, Dharmapuri. The petitioner's father has worked in that capacity for a long time and thereafter, on account of closure of the District Rural Development Agency, he was absorbed as a Government Employee and before regularising his services, he died.

9. Therefore, taking analogy of the decision of the Apex Court in the State of Jharkand v. Jitendra Kumar Srivastava reported in AIR 2013 SC 3383, we are of the view that when the single Judge has not committed error in directing the Government Department to extend the benefit of compassionate appointment to the petitioner, it is for the appellant Government to consider the case of the 1st respondent and appoint him on compassionate ground within a period of three months from the date of receipt of a copy of this Order.”



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5. Thereafter, the petitioner was appointed as Night Watchman at Socio Economic Development Society in Dharmapuri by the proceedings of the third respondent dated 28.05.2018. Thereafter, it was changed as Watchman. However, the Hon'ble Division Bench of this Court directed the third respondent to appoint the petitioner in Rural Development and Panchayat Raj Department. Therefore, the petitioner submitted representation seeking regularisation of his father's service in the post of Office Assistant and also seeking appointment in Rural Development and Panchayat Raj Department.

6. On perusal of the counter filed by the second and third respondents revealed that the petitioner's father was an employee of the erstwhile Dharmapuri District Development Corporation / now District Socio Economic Development Society. Immediately after the petitioner's father's demise, the petitioner was settled with all consequential death benefits by the Corporation itself. That apart, the petitioner was also given compassionate appointment in the same Society. However, the



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petitioner's father's service was not regularised in Rural Development and Panchayat Raj Department.

7. Therefore, in view of the order passed by the Hon'ble Division Bench of this Court in WA.No.1062 of 2017 dated 15.09.2017, respondents 2 and 3 are directed to consider the representation submitted by the petitioner and to pass orders to regularise the petitioner's father's service in the post of Office Assistant and to settle all consequential monetary, pensionary and service benefits within a period of twelve weeks from the date of receipt of copy of this order.

8. Insofar as petitioner's appointment in Rural Development and Panchayat Raj Department is concerned, the petitioner was already appointed and his service was also regularised in the Department of District Socio Economic Development Society. Therefore, transfer and appointment of the petitioner in Rural Development and Panchayat Raj Department does not arise.



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9. In view of the above direction, this writ petition stands disposed of. There shall be no order as to costs.

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Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

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Chennai 600 009
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