



W.P.No.30154 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.30154 of 2024

and

W.M.P.No.32841 of 2024

V.Durairaj

.. Petitioner

Vs.

- 1.The State Represented by its
Secretary to Government, Govt. of Tamil Nadu,
Dept. of Labor & Employment,
Fort St. George, Chennai.
- 2.The State Represented by its
Secretary to Government, Govt. of Tamil Nadu,
Social Welfare and Women's Rights,
(Sa.Na4-2) Department, Fort St. George,
Chennai.
- 3.The State Represented by its
Secretary to Government, Govt. of Tamil Nadu,
Social Welfare and Noon Meal Scheme Department,
Fort St. George, Chennai.
- 4.The District Collector,
Collectorate, Vengikkal,
Thiruvannamalai – 606 604.
- 5.The Commissioner,
Panchayat Union,
Vandavasi – 604 408.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India

praying to issue a Writ of Certiorarified Mandamus to call for the records made in the impugned order in Na.Ka.No.1683181/2024/சஉதி-1 dated 29.07.2024 by the 4th respondent and to quash the same as illegal and arbitrary, and further direct the 4th respondent to consider the petitioner candidature to provide employment under compassionate grounds for any suitable post.

For Petitioner	:	Mr.M.Velmurugan
For RR 1 to 4	:	Mr.P.Balathandayutham Special Government Pleader
For R5	:	Mr.Murugan Raja Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings of the 4th respondent dated 29.07.2024 and for a consequential direction to the 4th respondent to consider the appointment of the petitioner on compassionate grounds for any suitable post.



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2. Heard the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 4 and the learned Government Advocate for the 5th respondent.

3. The case of the petitioner is that his father who was employed as an Organizer of the Noon Meal Scheme in Pulivai Panchayat Union Elementary School. On 23.10.2023, he died leaving behind his wife, the petitioner and another younger brother. The mother of the petitioner submitted a representation to the 5th respondent requesting for providing compassionate appointment to the petitioner in any suitable post.

4. The 4th respondent through proceedings dated 29.07.2024, rejected the claim made by the petitioner on the ground that only female candidates can be considered for appointment in the concerned post. Therefore, the candidature of the petitioner cannot be considered for compassionate appointment as per G.O.Ms.No.48, dated 18.08.2021. Aggrieved by the same, the present writ petition has been filed before this Court.

5. On carefully going through the order of rejection, it is seen that



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reliance has been placed on G.O.Ms.No.48, dated 18.08.2021. This Government Order came to be challenged before this Court in W.P.No.28231 of 2023. This Court was pleased to quash the Government Order by declaring the same as illegal and violative of Article 14 & 16 of the Constitution of India. The relevant portions in the order passed by this Court on 26.06.2024 are extracted hereunder:

“8. As far as the Noon Meal Scheme is concerned, there cannot be any quarrel over the reservation of the said post to women. Whereas, if the said employees died in harness while in service, the respondents themselves have included the said employment also within the scheme of compassionate appointment. The only thing is that the impugned Government Order states that since all the posts are reserved only for women candidates, compassionate appointment cannot be considered in respect of male candidates. The said reasoning makes a discrimination on the basis of sex. It not only affects the male children of female employees, but, effectively puts the female employees a par below to that of their male counterparts. The object of providing compassionate appointment is to provide succor to the family which is in penury. Just because the woman employee has left only a male legal heir/son, then, compassionate appointment cannot be deprived. Now, essentially, the G.O.Ms.No.48, dated 18.08.2021 discriminates and therefore, will not stand the scrutiny of Articles 14 & 16 of the Constitution of India. Accordingly, the same is declared to be illegal to the extent it totally denies the benefit to the male employees.



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9. *On the other hand, as directed by this Court in the earlier orders, if 100% of the vacancies in a particular department is reserved only for women, then, the applications have to be forwarded to the District Collector or to the Personnel and Administrative Reforms Department as the case may be, to be considered under the general pool for being appointed in other suitable posts for compassionate appointment.*

10. *In view thereof, this Writ Petition is allowed on the following terms :-*

(i) *The Government Order in G.O.Ms.No.48 Social Welfare & Women Rights (Sa.Na4-2) Dept. dt.18.08.2021 is declared to be illegal and violative of Articles 14 and 16 of the Constitution of India to the extent it excludes male heirs completely from compassionate appointment;*

(ii) *Secondly, the impugned orders, dated 01.04.2022, 28.10.2022 and 04.08.2023 shall stand quashed;*

(iii) *The respondents are directed to forward the application of the petitioner to the District Collector, Nagapattinam district for consideration for employment in any other suitable posts along with other candidates according to the seniority subject to the eligibility of the petitioner;*

(iv) *The said exercise of forwarding it to the District Collector, Nagapattinam district shall be completed within four weeks from the date of receipt of a copy of this order;*

(v) *Upon receipt of the said application, the District Collector, Nagapattinam district may consider the same along with the other applications depending on the application seniority and appoint the petitioner on*



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compassionate basis if he is eligible upon consideration on merits in accordance with seniority subject to availability of the vacancies;

(vi) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

6.In view of the above, it is quite evident that the relevant Government Order in G.O.Ms.No.48, dated 18.08.2021 has been quashed and therefore, the claim made by the petitioner for compassionate appointment cannot be rejected by quoting this Government Order. The claim made by the petitioner has to be independently considered on its own merits and in accordance with law by the 4th respondent.

7.In the result, the impugned proceedings of the 4th respondent dated 29.07.2024 is hereby quashed. There shall be a direction to the 4th respondent to deal with the application submitted by the petitioner for compassionate appointment on its own merits and in accordance with law and necessary orders shall be passed within a period of six (6) weeks from the date of receipt of a copy of this order.

8.In the result, this Writ Petition stands allowed with the above directions. Consequently, the connected Miscellaneous Petition is closed.

No costs.



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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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N.ANAND VENKATESH, J.

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