IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.30054 of 2024

P.Nithyananthan ... Petitioner

Vs.

1.Union of India
Represented by The Under Secretary,
Department of Revenue, Authority for Advance,
Rulling Cell, North Block,
New Delhi – 110 001.

2.The Secretary,
Income Tax Settlement Commission,
Interim Board for Settlement-I,
Principal Bench, New Delhi.

3.The Secretary,
Income Tax Settlement Commission,
(Interim Board for Settlement-VII),
Additional Bench,
Chennai – 600 035. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for records relating to order dated 28.06.2024 in O.A./310/00843/2021 quash the same and to consequently allow the said Original Application as prayed for.

For Petitioner	: Ms.K.Nithyashree
For R1	: Mr.V.Bala Subramanian Senior Panel Counsel
For R2 & R3	: Mr.M.T.Arunan Standing Counsel

<u>O R D E R</u>

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The order of the Central Administrative Tribunal, Chennai Bench dated June 28, 2024 in O.A.No.843 of 2021 is under challenge in the present writ petition.

2. The unsuccessful applicant before the Tribunal is the writ petitioner before this Court. The father of the writ petitioner was holding the post in the Income Tax Settlement Commission in Chennai from the year 1974 and died in the year 2003, while he was in service. The petitioner applied for

compassionate appointment on 13.08.2003. His application was considered and the Administrative Officer of the Income Tax Settlement Commission addressed a letter to the Under Secretary, Department of Revenue, Ministry of Finance, requesting relaxation of the prescribed time limit to consider the case of the writ petitioner for compassionate appointment. Accordingly, the time limit was relaxed and the petitioner was appointed in a regular post.

3. Even before the said recommendation, the petitioner was engaged as a temporary employee and his salary was paid from Contingent fund of India. In 2007, he was working as a temporary employee. His case was considered for regular appointment by the Head of the Department, Department of Revenue and an offer of appointment was issued on 17.09.2011 subject to terms and conditions.

4. Accordingly, the petitioner was offered an appointment on compassionate ground at the Income Tax Settlement Commission, Chennai as a trainee in the Pay Band of Rs.4440-7440 without any Grade Pay on certain terms and conditions. Initially, appointment of the petitioner was made as a trainee on terms and conditions. Condition No.2 reads as under:

2. You will be given the regular Pay Band 1 of Rs.5200-20200 with Grade Pay of Rs.1800/- only on acquiring the minimum prescribed educational qualification of 10th pass as stipulated in the Model Recruitment Rules for Group C Posts (pre-revised Group D posts) as per the recommendations of the 6th Central Pay Commission."

5. The above condition was imposed because the petitioner did not possess the minimum requisite educational qualification of 10th Standard. He was granted time limit initially for five years to acquire the said educational qualification. However, the petitioner has not passed 10th Standard even after the expiry of the period of five years granted by the department.

6. The learned Central Government Standing Counsel would submit that another five years was granted to the petitioner to acquire the minimum educational qualifications i.e., passing 10th standard. Despite the completion of 10 years, the writ petitioner failed to complete the minimum educational qualification, and consequently he was terminated was from service on 28.09.2021.

7. The initial appointment of the petitioner was on temporary basis and he was offered with an appointment as a trainee on condition that he should possess the requisite minimum educational qualification of pass in 10th Standard. Despite being granted 10 years time limit, he did not possess the minimum educational qualification as prescribed under the rules.

8. Compassionate appointments can never be claimed as an absolute right. All appointments are to be made strictly under the constitutional scheme and by following the procedures as contemplated under the Recruitment Rules. The compassionate appointment is a concession granted on the ground of family circumstances. In the present case, the petitioner was offered with an appointment as aTrainee subject to terms and conditions. Since he did not pass the minimum educational qualifications for holding the regular post he was terminated in the year 2021.

9. That being the case, we do not find any reason to interfere with the order impugned passed by the Central Administrative Tribunal. Therefore, the said order stands confirmed and consequently the Writ Petition is dismissed. No costs.

[S.M.S., J.] **[M.J.R., J.]**
16.12.2024

Jeni

Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Under Secretary,
Union of India
Department of Revenue, Authority for Advance,
Rulling Cell, North Block,
New Delhi – 110 001.

2.The Secretary,
Income Tax Settlement Commission,
Interim Board for Settlement-I,
Principal Bench, New Delhi.

3.The Secretary,
Income Tax Settlement Commission,
(Interim Board for Settlement-VII),
Additional Bench,
Chennai – 600 035.

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

Jeni

W.P.No.30054 of 2024

16.12.2024