



W.P.No.29018 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.29018 of 2024

Pachiyappan

.. Petitioner

Vs.

1.The District Collector,
Dharmapuri District, Dharmapuri.

2.The Commissioner of Nallampally Panchayat Union,
Dharmapuri District,
Dharmapuri.

.. Respondents

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 in ந.க.எண்.2384/2023/அ6 dated 21.07.2023 on the file of the 2nd respondent and quash the same as illegal and direct the respondents to appoint the petitioner as Cook in Nallampally Panchayat Noon Meal Scheme.

For Petitioner	:	Mr.R.Sankarasubbu
For R1	:	Mr.V.P.R.Elamparithi Additional Government Pleader
For R2	:	Mr.R.U.DineshKumar Additional Government Pleader



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ORDER

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This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 21.07.2023 and for a consequential direction to the respondents to appoint the petitioner as Cook in Nallampally Panchayat Noon Meal Scheme.

2. Heard the learned counsel for the petitioner, learned Additional Government Pleader for 1st respondent and the learned Additional Government Pleader for 2nd respondent.

3. The case of the petitioner is that his mother was working as a Cook in the Panchayat Union Elementary School at Nallampally Panchayat. She expired on 09.08.2019. The petitioner made an application for compassionate appointment. The same has been rejected by the 2nd respondent through proceedings dated 21.07.2023 by relying upon G.O.Ms.No.48, dated 18.08.2021 on the ground that only a female candidate can be considered for appointment to the post of Cook in the Noon Meal Centre. Aggrieved by the same, the present writ petition has been filed before this Court.



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



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declared to be illegal to the extent it totally denies the benefit to the male employees.

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 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.”

5.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 1st respondent.

7.In the result, the impugned proceedings of the 2nd respondent dated 21.07.2023 is hereby quashed. There shall be a direction to the 1st 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



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directions. No costs.

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

To

- 1.The District Collector,
Dharmapuri District, Dharmapuri.
- 2.The Commissioner of Nallampally Panchayat Union,
Dharmapuri District,
Dharmapuri.

N.ANAND VENKATESH, J.

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