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W.P.No.28580 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.28580 of 2024
and W.M.P.No.31160 of 2024

Pravinkumar

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Social Welfare and Noon Meal Scheme Department,
Fort St. George, Chennai.

2.The District Collector,
Viluppuram District, Viluppuram.

3.The Director,
Integrated Child Development Service (ICDS),
No.1, Pammal Nallathambi Street,
Taramani, Chennai – 600 113.

4.The District Project Officer,
Integrated Child Development Service (ICDS),
Viluppuram District Collectorate Campus,
Viluppuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 22.04.2022 issued by the 4th respondent and to quash the same as illegal and violation of Article 14,



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19, 21 of the Constitution of India and consequently direct the respondents to appoint the petitioner in any of the suitable post to which the petitioner is eligible on compassionate grounds by applying the principles of parity.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the 4th respondent dated 22.04.2022, refusing to grant compassionate appointment to the petitioner and for a consequential direction to the respondents to appoint the petitioner in any suitable post to which he is eligible on compassionate grounds.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

3.The case of the petitioner is that his mother was appointed as an Assistant in Anganwadi Centre at A.K.Kuchippalaiyam, Chinnakallipattu. The petitioner's mother died on 24.06.2019. After her demise, the petitioner approached the 4th respondent and submitted an



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application to provide compassionate employment on the ground that the family is under financial distress and that the mother alone was taking care of the family.

4.The claim made by the petitioner came to be rejected by the 4th respondent through the impugned proceedings dated 22.04.2022 only on the ground that the concerned post can be filled up only by a female candidate by relying upon 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 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



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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.

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



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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."

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



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own merits and in accordance with law by the 4th respondent.

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7.In the result, the impugned proceedings of the 4th respondent dated 22.04.2022 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.

15.10.2024
(1/3)

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

To

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Rep. by Secretary to Government,
Social Welfare and Noon Meal Scheme Department,



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N.ANAND VENKATESH, J.

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