



Writ Petition No.34408 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>28.03.2024</i>
<i>Pronounced on</i>	<i>24.04.2024</i>

CORAM

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.34408 of 2017
& WMP No.38244 of 2017

A.Ramachandiran

..Petitioner

vs.

1.The Government of Tamilnadu,
rep. by its Secretary,
Social Welfare & Nutritious Meal Department,
Fort St. George,
Chennai-600 009

2.The Director,
Social Welfare & Nutritious Meal Department,
Arunachala Street,
Chindadripet,
Chennai-600 002.

3.The District Collector,
Office of the Collectorate,
Villupuram District,
Villupuram.

4.The Block Development Officer,
Panchayat Union,
Melmalayanoor,
Villupuram District.



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5. The Tahsildar,
The Office of the Gingee Taluk,
Gingee Fort,
Villupuram District.

... 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 impugned order dated 23.05.2017 vide Na.Ka.No.65/2015/BE4 issued by the third respondent and quash the same as illegal and further direct the respondents to appoint the petitioner as Noon Meal Organizer on compassionate ground in Social Welfare & Nutritious Meal Department.

For Petitioner : Ms.V.Pavithra Devi for Mr.V.L.Nehru

For Respondents : Mr.L.S.M.Hasan Fizal, AGP for R1 to 3 &
5
Mr.R.Prathap Kumar for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the impugned order dated 23.05.2017 vide Na.Ka.No.65/2015/BE4 issued by the third respondent and quash the same as illegal and further direct the respondents to appoint the petitioner as Noon Meal Organizer on compassionate ground in Social Welfare & Nutritious Meal Department.



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2.The case of the petitioner is that the petitioner's father namely R.Aranganathan, who was employed as Noon Meal Organizer, died in harness on 18.07.2003. The petitioner herein, who is the son of the deceased employee, made an application to the respondents on 11.10.2003 within the prescribed period, seeking compassionate appointment. However, the third respondent vide impugned order dated 23.05.2017, has rejected the application of the petitioner on the ground that since one female heir of the deceased employee, who is the sister of the petitioner is available, the petitioner cannot be provided employment under compassionate ground. Challenging the impugned order, the petitioner has constrained to file the present Writ Petition.

3.A detailed counter affidavit has been filed on behalf of the respondents wherein, it is stated that keeping in view the women empowerment and their economic uplift, the Government is implementing various measures and provided employment to women and as a part of such measures, the Government of Tamilnadu has decided to extend compassionate appointment to female legal heir of the deceased employee



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and if no female heir is available, then compassionate appointment can be provided to the male legal heir of the deceased employee. It is further stated that initially an application was made by the sister of the petitioner who, after marriage has given no objection to the petitioner and thereby, the petitioner has made an application and it was considered and found that compassionate appointment to male heir of the deceased employee cannot be made when a female heir is alive as per the guidelines and the same was communicated to the petitioner also. It is also stated that as of now, nearly 15 years have lapsed since the demise of the deceased employee which shows that the family is not in indigent circumstances, somehow or other the family is surviving by adopting some other means of living and seeking compassionate appointment is an additional support only. With these averments, the respondents sought for dismissal of the Writ Petition.

4. Having heard the submissions of the respective counsels and on careful perusal of the material available on record, it appears that the petitioner is the son of the deceased Noon Meal Organizer, who died in harness on 18.07.2003. He submitted an application seeking compassionate appointment. Along with the application, he has also enclosed requisite



documents and no objection affidavit from the siblings of the deceased employee, who are also the legal heirs. But the third respondent passed impugned order on 23.05.2017 rejecting the request of the petitioner for providing compassionate appointment on the ground that male heir cannot be considered for appointment on compassionate grounds as Noon Meal Organizer when the female heir is alive.

5. It is the contention of the respondents that if the daughter of the deceased employee who is a female heir in their family had submitted an application for compassionate appointment, her case would have been considered, but when a woman legal heir is available, they could not consider the petitioner's claim as it is against the Government instructions.

6. This Court is unable to accept the contentions of the respondents for two reasons. The first reason is, the decision of the Government to appoint only the woman candidates as Noon Meal Organizers from 25.10.2016 vide G.O.Ms.No.78, Social Welfare and Nutritious Meal Department dated 25.10.2016, itself is arbitrary, discriminatory and unconstitutional. The said decision leads to reserve 100% posts of Noon Meal Organizer only to the



woman candidates which is impermissible under law as it is violative of Articles 14 and 21 of the Constitution of India. But this Court is not inclined to pass any order on this issue considering the fact that the said issue is not under challenge in the present case.

7. The second reason is that the woman legal heir of the deceased employee i.e., the sister of the petitioner gave her no objection to provide compassionate appointment to the petitioner as she got married and living separately. This Court is unable to understand the stand of the respondents in rejecting the application of the petitioner despite the woman legal heir gave her no objection. The only duty of the respondents is to examine whether the petitioner is entitled for appointment under compassionate grounds, if he is otherwise eligible to fulfill the aim and object of the compassionate appointment scheme and without following the aim and object of the compassionate scheme, the respondents made several contentions in their counter affidavit, which are irrelevant for adjudication of the present case.

8. At this juncture, the learned counsel for the petitioner has placed



reliance on the order dated 30.06.2023 in W.P.No.24581 of 2019. The learned Single Judge of this Court in identical circumstances, on relying the order of this Court dated 11.03.2015 in W.P.No.24005 of 2014, directed the respondents, to consider the claim of the petitioner therein for appointment, if they find him otherwise suitable, without putting his status of being a son/male legal heir of the deceased to the post of Noon Meal Organiser, on compassionate ground. The relevant portion of the order dated 11.03.2015 in WP.No.24005 of 2014 is extracted herein:

"... This Court held that even on earlier occasions, rule has been relaxed and male members have been appointed as Noon Meal Organizers and therefore, on that score, the petitioner therein should not be discriminated and this Court remitted the matter back to the first respondent, namely, the Government of Tamilnadu for fresh consideration and to issue appointment orders by relaxing the condition which was put against the petitioner therein".

9.It is brought to the notice of this Court that the order in WP.No.24005 of 2014 and order in WP.No.24581 of 2019 have become



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10. In view of the facts and circumstances of the case and in the light of the orders passed by this Court in the above stated Writ Petitions, this Court is of the considered view that the order impugned in this Writ Petition could not sustain in the eye of law. As such, it is liable to be dismissed.

11. Accordingly, this Writ Petition is allowed with the following directions:

(i) The respondents shall consider the claim of the petitioner for appointment as Noon Meal Organizer on compassionate grounds, if he is otherwise eligible, without raising any objections that he is being a male legal heir of the deceased.

(ii) The respondents shall pass orders in this regard within a period of four(4) weeks from the date of receipt of a copy of this order.

No costs.

Consequently, connected miscellaneous petition is closed.

24.04.2024

Index : Yes/No

Speaking order: Yes/No



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BATTU DEVANAND, J

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