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Writ Petition No.34503 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.34503 of 2023
and W.M.P.No.34409 of 2023**

- 1.Union of India,
Represented by the Chief Secretary to Government,
Govt. of Puducherry, Chief Secretariat, Puducherry.
 - 2.The Under Secretary to Government,
Department of Personnel & Administration Reforms
(Personnel Wing),
Chief Secretariat, Puducherry.
 - 3.The Secretary to Government (Education),
Chief Secretariat, Puducherry.
 - 4.The Director of School Education,
Directorate of School Education,
Puducherry.
 - 5.The Deputy Director (Administration),
Directorate of School Education,
Puducherry.
 - 6.Chief Educational Officer (CEO),
O/o.The Chief Educational Officer,
Puducherry.
- ... Petitioners



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Vs

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1. Central Administrative Tribunal,
Madras Bench, Chennai.
Represented by its Registrar.

2. K. Anandakumar

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the order passed in O.A.No.510 of 2019, dated 09.02.2023 on the file of the Central Administration Tribunal, Madras Bench and Quash the same and pass further orders.

For Petitioner : Mr.R.Syed Mustafa
Special Government Pleader

For R1 : Tribunal
For R2 : Mr.Prakash Adiapadam

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

The challenge in the Writ Petition is to an order passed by the Central Administrative Tribunal quashing the order passed by the third petitioner herein, dated 17.11.2018 and consequently directing the petitioners to issue appointment order to the second respondent on compassionate grounds in

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commensuration of his educational qualification.

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2. Heard Mr.R.Syed Mustafa, learned Special Government Pleader appearing for the petitioners and Mr.Prakash Adiapadam, learned counsel appearing on behalf of the second respondent.

3. Mr.R.Syed Mustafa, learned Special Government Pleader appearing for the petitioners would submit that the father of the second respondent died in harness on 05.02.2002. An application for compassionate appointment was made on 05.08.2002. Originally, the said request was rejected by the order dated 15.02.2007, based on the Screening Committee's Minutes. He would submit that thereafter, again a representation had been made on 03.11.2014 and was recommended for being considered to the Screening Committee. However, the Screening Committee had held that the second respondent's family is not in a penurious circumstances and based on the Minutes of the Screening Committee, the claim of the second respondent had been rejected. Challenging the same, the second respondent had approached the Tribunal and the Tribunal on erroneous facts had set aside



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the order of rejection by holding that the Screening Committee in its Minutes had recommended the case of the second respondent in its both Meetings held on 12.09.2005 and 01.07.2015, whereas, the impugned order suggested otherwise. He would submit that in fact the Screening Committee had rejected the claim of the second respondent. Hence, he would seek interference of the order passed by the Administrative Tribunal.

4. Countering his arguments, Mr.Prakash Adiadam, learned counsel appearing for the second respondent would submit that claim of the second respondent is that his application had been rejected as early as in the year 2007 cannot be countenanced for the simple fact that the said order, even as on today has not been communicated to him. He would further submit that when a report of the Deputy Director (Administration), Office of the Deputy Collector (Revenue) North had submitted a Report based upon the Report of the Tahsildar Taluk Office, Puducherry that the annual income of the family of the second respondent including the salary of the second respondent was only Rs.16,280/-, there was no material available with the petitioners to come to a different conclusion to hold that the second respondent is



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employed in a private company earning for a sum of Rs.8,000/- per month.

This factual finding given by the authority is wholly erroneous. Therefore, there is no error in the order of the Tribunal in setting aside the order of the petitioners and directing the petitioners to consider the case of the second respondent for appointment on the ground of compassionate appointment.

5. We have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record before this Court.

6. A perusal of the order impugned before us would show that what the Tribunal had done is to set aside the order passed by the petitioners in rejecting the claim of the second respondent for compassionate appointment and directing the petitioners to consider the case of the second respondent for appointment on the ground of compassionate appointment.

7. From the facts that had been narrated by the respective counsels, it could be seen that there is a discrepancy as regards to the family income of



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the second respondent. Even though, a report had been filed by the Deputy Director (Administration), Office of the Deputy Collector (Revenue) North, based upon the enquiry conducted by the Tahsildar Taluk Office Puducherry, indicating that the second respondent's family owns a house and also except the dwelling house, they do not hold any other immovable property and that the income of the family is Rs.16,280/- which also includes the monthly salary of the second respondent, the Minutes of the Screening committee would state that all the sons of the deceased Government servant are grown up and that there is no one to be supported. Further, under the order impugned dated 17.11.2018, it has been indicated that the second respondent is working in a private firm earning for a sum of Rs.8,000/- per month. We are not able to comprehend these factual discrepancies.

8. Be that as it may, what the Tribunal has done is to only direct the petitioners to consider the claim of the second respondent for compassionate appointment and there is no positive direction made by the Tribunal for granting an order of appointment on compassionate grounds.



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9. In such circumstances, we are not inclined to interfere with the order passed by the Tribunal. We make it clear that in view of the factual discrepancies that had been noted by us, it is open to the petitioners to call for a fresh Report on penury circumstances in which the family of the deceased employee late M.Kanniappan is living and pass appropriate orders on merits and in accordance with law.

10. Since, the direction was issued by the Tribunal to complete the exercise within a period of three months from the date of receipt of a copy of the order and noting that the order of the Tribunal was made as early as on 09.02.2023, we direct the petitioners to complete the said exercise as directed by the Tribunal along with the liberty issued by us within a period of three (3) months from the date of receipt of a copy of this order.

11. At this juncture, Mr.R.Syed Mustafa, learned Special Government Pleader appearing for the petitioners would submit that there are other individual whose claims has also been rejected by the Department in view



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of the order passed by us, it would facilitate such individual to approach for a similar relief. The said statement made by the learned counsel cannot be countenanced for the simple fact that the order of rejections have all been made in the year 2019 and the rejected claimants have not approached the Court for any relief which would pre-suppose that such candidates have acquiesced themselves of the fact that they are ineligible for being considered for appointment on compassionate grounds and even if they approach this Court, in our view, their claims could be opposed to by the Department on the ground of delay and latches.

12. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

04.03.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

Central Administrative Tribunal,
Madras Bench, Chennai,
Represented by its Registrar.



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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