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Writ Petition No.36223 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2024

CORAM

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

W.P.No.36223 of 2023

- 1.Union of India,
Rep., by the Secretary to Govt., (DP&AR) (PW)
Govt., of Puducherry,
Chief Secretariat, Goubert Avenue,
Beach Road, Puducherry - 605 001.
- 2.The Under Secretary to Govt., (DP&AR) (PW)
Govt., of Puducherry
Chief Secretariat, Goubert Avenue,
Beach Road, Puducherry - 605 001.
- 3.The District Collector cum Secretary to Govt., (Rev).,
Government of Puducherry,
Department of Revenue and Disaster Management,
Puducherry.
- 4.The Director of Survey & Land Records,
Government of Puducherry,
Directorate of Survey & Land Records,
Puducherry.
- 5.The Special Officer,
Department of Revenue and Disaster Management,



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Government of Puducherry,
Puducherry.

... Petitioner
Vs

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

2. S. Jayakumar
S/o (Late) K. Srinivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the records pertaining to the order passed in O.A.No.1717/2017, dated 05.01.2023 on the file of the Central Administrative Tribunal, Chennai Bench and to set aside the same and to dismiss the O.A.No.1717 of 2017 and to pass such further order.

For Appellants : Mr. R. Syed Mustafa

For Respondent : Mr. M. Gnanasekar for R2

R1 - Court

ORDER

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

The challenge in the Writ Petition is to an order of the Tribunal in setting aside the order of rejection of the second respondent's application for appointment on compassionate grounds and to consider the



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case of the second respondent for compassionate appointment and to pass appropriate orders.

2.Heard Mr.R.Syed Mustafa, learned counsel appearing for the petitioners and Mr.M.Gnanasekar learned counsel appearing for the second respondent.

3.Mr.R.Syed Mustafa, learned counsel appearing for the petitioners would submit that one Mr.K.Srinivasan, who was working as Deputy Surveyor in Taluk Officer, Villianur, died in harness on 10.12.2009 and upon his death, the wife of the deceased employee had given a representation to the petitioners, seeking to provide appointment on compassionate grounds to the second respondent herein. The claim of the second respondent was considered by the Commissioner cum Secretary, Revenue Department, Puducherry and recommended his name along with 21 others belonging to the Revenue Department to be placed before the Committee for compassionate appointment. The said committee after perusing the applications, had rejected 18 applications out of 22 applications, from the Revenue Department. He would further



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submit that the Committee had held that there was no necessity to grant appointment to the second respondent, as he does not fall within the criteria for consideration for grant of appointment under compassionate grounds. He would submit that the Tribunal without considering the facts and circumstances of the case had set aside the order of rejection. He would submit that the Revenue Department had in fact recommended the name of the applicant/second respondent for compassionate appointment, but however, there were only 51 vacancies at that relevant point of time for which 181 applicants including persons from various other departments. Based upon the criteria of each and every applicants only such compassionate appointment had been granted. Therefore, the Committee had considered the various aspects in the case of the second respondent and found that the case of the second respondent is not a fit case to grant appointment on compassionate ground. Hence, he would seek inference of this Court in the order of the Tribunal.

4.Countering his arguments, the learned counsel appearing for the second respondent would submit that the object of granting com-



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passionate appointment is to wade of the penury circumstances in which the family of the deceased employee would be put to great hardship.

He would further submit that the Committee had held that the circumstances of the family do not satisfy the condition laid down by the Government of India for compassionate appointment and the family do not warrant any compassionate appointment. He would submit that such a finding by the Committee on facts is contrary to the recommendation of the Revenue Department, wherein the family circumstances indicated that the family of the second respondent continues to be in penury. Further he would submit that the Tribunal had directed the petitioners to consider the case of the second respondent only in consonance with the guidelines issued by the Government of India and not otherwise.

5.We have considered the submissions made by the learned counsel appearing for the respective parties and perused the materials placed on record before this Court.

6.Since we found that the Committee had taken a factual and



drastic view than that of the recommendatory body, namely, the Revenue Department, we directed the learned counsel appearing for the petitioners to produce the files, pursuant to which, the file relating to subject was produced. We have perused the minutes of the meeting of the Committee constituted for considering the applications for appointment on compassionate grounds, dated 11.11.2016. From what had been produced before us, we find that the Committee had considered about 181 applications and had recommended the names of 23 persons to be appointed on compassionate grounds. In certain of the candidates, the Committee has deferred its decision and in most of the candidates had rejected their claims. We have gone through the entire proceedings from which it is seen that the second respondent's name is found in serial No.46. As against his name, the findings of the Committee had been noted, which is as follows:-

*Sl.No.46 :- The Committee noted that the Govt.,
Servant died while in service at the age of 58 years, con-
sists of his wife and two sons (including applicant).
The family is receiving a family pension of Rs.11,000/-
per month (as on 2012) apart from pensionery be-*



nefit of Rs.8.84 lakhs. The applicant studied Diploma in Chem.Tech., seeking employment and his elder brother working in Chennai whose income is not mentioned. Considering the above facts, the committee is of the view that the circumstances do not warrant for compassionate appointment.

7.From the names against which the findings of the Committee, as regards to the persons, who were recommended to be appointed were also gone through by us, we find that the persons, who were similarly or even better placed to the second respondent had been recommended to be appointed by the Committee on compassionate ground. For better appreciation, we would only extract a finding of the Committee in respect of a person in serial No.109, for anonymity, we do not refer the name of the applicant, but only extract the findings of the Committee:-

Sl.No.109:- The committee noted that the deceased Govt., Servant died at the age of 55 years, consists of his wife & four daughters. One is working as Doctor in JIPMER and earning Rs.58,165/- per month. The second & third daughters are graduates and the last one is a student. The family



is receiving a family pension of Rs.10883/- per month (as on 2013) apart from pensionary benefit of Rs.7.73. Considering the size of the family and unmarried daughters of the deceased, the committee recommended to the post of LDC on compassionate grounds.

8.We are not inclined to make any comments with regard to the reasoning given by the Committee rejecting the claim of the second respondent, as on the face of the findings extracted above. We without any hesitation conclude that the Committee had acted in utter discrimination in recommending the names for appointment on compassionate ground.

9.In such view of the matter, we are of the considered view that no interference is required to be made to the order impugned in this Writ Petition and hence, this Writ Petition would have to fail and accordingly the same is dismissed.

10.The second respondent shall be considered for appointment in



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any of the available vacancy as of today or in future vacancy and on such

appointment, he shall not be entitled for any retrospective ap-

pointment/regularisation. However, there shall be no order as to costs.

(R.S.K.,J.)

(K.B., J.)

19.02.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To
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The Central Administrative Tribunal
Chennai Bench, Chennai
Represented by its Registrar,



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

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