



W.P.No.36296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.36296 of 2023

R.Rajmohan

...Petitioner

-Vs-

1.The Secretary to the Government
Government of Tamil Nadu
Secretariat, Fort St.George
Chennai – 9.

2.The Additional Commissioner
Revenue Department
Chepauk
Chennai – 5

3.The District Collector
Cuddalore District
Cuddalore.

4.The Special Tahsildar (Social Security Scheme)
Panruti Taluk
Panruti
Cuddalore.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the proceedings of the 3rd respondent in Na.Ka.A4/221996/2022 dated 22.05.2023 and quash the same consequently direct the 3rd respondent to revise the service of the petitioner as Junior Assistant with effect from his date of his appointment as Record Clerk (viz. 23.05.2014) along with subsequent promotions, backwages and other monetary benefits within the time frame that may be fixed by this Court in the light of similar orders passed by this Court in W.P.(MD)No.3642/2011 dated 15.02.2017 and W.P.(MD).Nos.13354 & 13355 of 2013 dated 06.12.2018.

For petitioner : Mr.R.Selvakumar

For respondents : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed challenging the proceedings of the 3rd respondent in Na.Ka.No.A4/221996/2022 dated 22.05.2023 and to direct the respondents to consider the request made by the petitioner in the post of Junior Assistant.



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2. The petitioner's father died on 05.02.1997 while on service as

Village Administrative Officer, Panruti Division, Cuddalore District.

Thereafter, on 04.02.2000, the petitioner's mother made an application for compassionate appointment for the petitioner. At that time, the petitioner was a minor. In this regard, the 3rd respondent had sent a letter to 2nd respondent on 04.02.2000 for clarification. The 2nd respondent clarified that the petitioner's son had completed the 10th standard in the year March 2000 and the application for the compassionate appointment had been made within a period of three years. The 3rd respondent issued proceedings in A4/37474/2011 dated 04.03.2014. The petitioner was called upon to appear before the 3rd respondent and he was appointed to the post of Record Clerk and joined duty 23.05.2014. After a period of eight years the petitioner once again made application to appoint him in the post of Junior Assistant with effect from 23.05.2014. The petitioner is claiming right under the Government order in G.O.Ms.No.1499 Labour and Employment Department dated 03.08.1989. Accordingly, the appointing authorities under no circumstances should appoint a dependant to a lower post on compassionate grounds who possess the qualification required for the post



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of Junior Assistant /Typist on the ground of non availability of vacancy in the office or department or the dependants not willing to work in other departments. It reads further the dependant appointed by lower post with reference to their qualifications possessed at the time of their initial appointment.

3. On perusal of the impugned order revealed that as per G.O.Ms.No.560 dated 03.07.1997, when the candidate seeking employment under the Government Order should possesses all the proscribed qualification for the post concerned and these conditions should not be relaxed in individual cases. That apart, the petitioner was appointed on compassionate ground. Though application was made in the year 2000, he was appointed only in the year 2014, since he was minor at the time of application made by his mother. At the time of application, he was studying only 10 standard. Further, having been accepted the offer made by the respondent to the post of Record Clerk and joined as Record Clerk on 23.05.2014, after a period of eight years, the petitioner cannot seek appointment to the post of Junior Assistant based on the G.O.Ms.No.1499



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dated 03.08.1989. Though, the petitioner possessed degree on the date of his appointment he was only studying 10th standard.

4. The learned counsel for the respondent submitted that as per G.O.Ms.No.33 dated 08.03.2023, the eligible member of the family of the deceased or medically invalidated Government servant may make an application for appointment under these rules in Form-I through online in the designated web portal or website of the department or in writing addressed to the Head of the Department in which the Government servant, was working at the time of his death or retired on medical invalidation. Applicant for appointment under these rules, must possess the educational qualification prescribed for the post applied for, including adequate knowledge in Tamil, on the date of application. Now, the petitioner has been appointed and working in the department.



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5. Therefore, the request made by the petitioner is rightly rejected by the 3rd respondent and this court find no infirmity or illegality of the order passed by the 3rd respondent and this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

05.01.2024

Index : Yes/No
Internet: Yes/No
gvn



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G.K.ILANTHIRAIYAN,J.
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