



WP(MD) No.509 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.509 of 2024

R.Silambarasan

... Petitioner

Vs.

1.The District Registrar (Co-operatives),
Madurai Region,
Madurai.

2.The Deputy Registrar (Co-Operatives),
Usilampatti Region @ Thirumangalam,
Madurai District.

3.The Administrator
M.D.2A Thidiyan Primary Agriculture Cooperative Credit Society,
Thidiyan,
Usilampatti Taluk,
Madurai District.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.4350/2022/Tho Va dated 27.07.2023 and quash the same and consequently directing the respondents to provide compassionate appointment to the petitioner.

For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.S.Kameshwaran – for R1 & R2

Government Advocate

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.4350/2022/Tho Va dated 27.07.2023 and consequently directing the respondents to provide compassionate appointment to the petitioner.



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2. Heard Mr.C.Jeganathan, learned counsel for the petitioner and Mr.S.Kameshwaran, learned Government Advocate appearing for the respondents 1 and 2.

3. The petitioner, who sought appointment on compassionate scheme in view of the death of his father on 11.10.2022 who got his application rejected for the reason that the petitioner's father's services has not been regularised and hence, he shall not come under the purview of the scheme.

4. The learned counsel for the petitioner submitted that the petitioner's father's colleagues who were similarly placed at the time of his death got regularised and hence, the respondent ought to have invoked the rule of fiction. But in the impugned order, it is stated that the petitioner's father died and hence, he cannot be considered for appointment.



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5. The learned counsel for the petitioner drew the attention of this Court to the earlier decision rendered in ***S.Gandhimathi v. The Deputy Registrar of Cooperative Society and others*** reported in **2003 Writ L.R.479**, wherein this Court has held that by applying the Rule of Fiction, the deceased shall be deemed to have been regularised, in view of his long service.

Relevant portion of the said judgment is extracted as under:

“14. By applying the rule of fiction the deceased is deemed to have been regularised. In terms of The Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, the deceased ceased to be a casual and deemed to be a regular employee with permanent status on his completing 480 days and on the date of death he was a permanent employee and therefore his son for whose benefit the writ petition has been filed is entitled to be considered for appointment on compassionate ground. The contention that the deceased always remained a casual labourer as no orders have been passed even though proposal was sent for regularisation cannot be sustained.”



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6. In the instant case also, the petitioner claims that his father was appointed in the year 1998 and he died during the year 2023 after having put 28 years of service. Hence, Rule of Fiction can be applied and it can be presumed that the petitioner's father would have been regularized had he was alive.

7. Taking into account of the long services of the petitioner's father and by applying the Rule of Fiction, I feel that the second respondent should be given suitable direction to reconsider the petitioner's application.

8. In view of the above stated reasons and also in the light of the judgment held in *S.Gandhimathi's case(cited supra)*, the impugned orders passed by the second respondent dated 27.07.2023, is set aside and the second respondent is directed to reconsider the application of the petitioner for compassionate



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appointment and pass orders afresh within a period of six weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition stands disposed of. No Costs.

07.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.509 of 2024

Dated:
07.06.2024