



W.P(MD)No.667 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.667 of 2024

R.Pandiarajan

... Petitioner

Vs.

**1.The District Collector,
(Noon Meal Section),
Office of the District Collector,
Madurai District, Madurai.**

**2.The Commissioner,
T.Kallupatti Panchayat Union,
T.Kallupatti, Madurai District.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No.11520/2023/Sa.Vu.Thi.1, dated 22.12.2023 consequently the impugned proceedings issued by the 2nd respondent in Na.Ka.No. 2379/2023/A5, dated 22.12.2023 and quash the same as illegal and unconstitutional and consequently directing the respondents herein to provide compassionate appointment to the Petitioner within the time stipulated by this Court.



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For Petitioner : Mr.P.Mahendran
For R1 : Mr.S.Shaji Bino,
Special Government Pleader
For R2 : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition has been filed to call for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No. 11520/2023/Sa.Vu.Thi.1, dated 22.12.2023 consequently the impugned proceedings issued by the 2nd respondent in Na.Ka.No.2379/2023/A5, dated 22.12.2023 and quash the same as illegal and unconstitutional and consequently directing the respondents herein to provide compassionate appointment to the Petitioner within the time stipulated by this Court.

2. The petitioner's mother was appointed as an Assistant Cook under the Tamil Nadu Government Noon Meal scheme at K. Perumalpatti Panchayat Union Primary School on 1912-2002. While in service, she passed away on 17-04-2018. She is survived by the petitioner and his two sisters. The petitioner approached the second respondent and submitted a representation seeking appointment on compassionate ground due to the sudden death of his mother,



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Ponnachiammal. He also submitted his application on 25-06-2018 by enclosing all the necessary documents including no objection certificates issued by both of his sisters. Since the petitioner's application was not considered, he filed a writ petition in W.P(MD)No.15559 of 2023 and this Court by its order, dated 24-08-2023 was pleased to direct the respondents to consider the representation of the petitioner, dated 25-06-2018 and pass appropriate orders on merits and in accordance with law.

3. On the basis of the said order, the petitioner had sent a detailed representation along with a copy of the order passed by this Court on 23-09-2023. Since the respondents did not take any action, he issued a contempt notice to the respondents on 16-12-2023. Thereafter, the first respondent had issued the impugned proceedings, dated 22-12-2023 rejecting the petitioner's request for compassionate appointment on the ground that the petitioner is not eligible for getting compassionate employment by virtue of G.O.Ms.No.48, Social Welfare and Women Empowerment Department, dated 18-08-2021 and consequently, the second respondent also issued impugned proceedings, dated 22-12-2023 thereby rejecting the petitioner's request for compassionate appointment confirming the proceedings of the first respondent,



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dated 22-12-2023. Challenging the aforesaid proceedings of the first and second respondents, this writ petition came to be filed.

4. The learned counsel for the petitioner submitted that the request of the petitioner seeking compassionate appointment was made on 25-06-2018 pursuant to the death of his mother on 17-04-2018. However, the issuance of the G.O.Ms.No.48, Social Welfare and Women Empowerment Department was on 18-08-2021. In view of the same, the rejection of the petitioner's application seeking appointment on compassionate ground on the basis of the aforesaid Government Order applying the same retrospectively is *per se* illegal and the same is not sustainable in law. G.O.Ms.No.48, Social Welfare and Women Empowerment Department, dated 18-08-2021 would have only prospective effect and hence, the impugned order has to be quashed and sought for allowing the writ petition.

5. The second respondent has filed a counter affidavit and the learned Special Government Leader submitted that the G.O.Ms.No.48, Social Welfare and Women Empowerment Department, dated 18-08-2021 is the final one and the various representations of the male legal heirs seeking compassionate



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appointment was returned and rejected. Only on that basis, the petitioner's representation also came to be rejected by the first respondent. Accordingly, the petitioner is not suitable to the post of Noon Meal Organiser and hence, the first respondent rejected the representation of the petitioner and the same was duly confirmed by the second respondent and pressed for dismissal of the repetition.

6. Heard the learned counsels on either side and carefully perused the materials available on record.

7. However, the fulcrum of the issue in hand is no more *res integra* and the same has been dealt with by this Court at least in a couple of cases in ***W.P(MD)No.17499 of 2022***, dated 13-07-2023 in the case of ***M. Kathiresan v. Secretary to Government, Social Welfare and Noon Meals School Department, Chennai & others*** and ***W.P.No.5410 of 2023***, dated 01-09-2023 in the case of ***R.Arunagiri v. State represented by the Secretary to the Government, Social Welfare Department, Chennai & others***. This court in the case of ***W.P.No.5410 of 2023***, dated 01-09-2023 has passed favourable



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orders to the petitioner therein and the relevant portion of the said order is extracted as follows:

“5.....As far as invoking the Government Order in G.O.Ms.No.48, Social Welfare and Women Empowerment Department dated 18.08.2021, this Court is of the view that such Government Order cannot be given retrospective effect. The petitioner has accrued right to get the compassionate appointment in the year 2000 itself. That apart, restricting the compassionate appointment only to the female legal heirs is nothing but discriminative and violative of equality clause under Article 14 of the Constitution of India.”

8. Fully fortified by the mandates of the aforesaid order discussed supra, this Court is of the considered view that the petitioner has an accrued right to get compassionate appointment in the year 2018 itself. Hence, applying the directives of G.O.Ms.No.48, Social Welfare and Women Empowerment Department, dated 18-08-2021 retrospectively thereby scuttling the chances of the petitioner to be appointed on compassionate ground is nothing but discriminative and violative of equality class under Article 14 of the Constitution of India by restricting the said appointment only to the female legal heirs.



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9. In view of the same, the impugned order, dated 22-12-2023 is set aside and consequently, the respondents are directed to provide compassionate appointment to the petitioner within a period of twelve (12) weeks from the date of receipt of copy of this order. Accordingly, this Writ Petition stands allowed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

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Madurai District, Madurai.

2.The Commissioner,
T.Kallupatti Panchayat Union,
T.Kallupatti, Madurai District.



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L.VICTORIA GOWRI, J.

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