



W.P.(MD) No.1887 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.1887 of 2021
&
W.M.P.(MD).No.22477 of 2023

Selvakumar

... Petitioner

Vs.

1.The Director
Department of School Education
College Road, Nungambakkam
Chennai

2.The Joint Director (Personnel Department)
School Education Department
College Road, Nungambakkam
Chennai

3.The Chief Educational Officer
Office of Chief Educational Officer
Madurai

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order bearing O.Mu.No.5046/a2/2020 dated



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12.10.2020 on the file of the 3rd respondent and to quash the same and subsequently direct the 3rd respondent to fix the appointment of the petitioner as on 07.08.1998 and to grant all attendant service and monetary benefits to the petitioner.

For Petitioner : Ms.S.Sherlin Sheeba
for
Mr.K.Samidurai

For Respondents : Mr.V.Omprakash, Govt.Advocate

ORDER

The petitioner here in who was appointed as Junior Assistant on compassionate grounds on the death of his father on 24.10.1998 was subsequently promoted to the post of Assistant and further promoted to the post of Superintendent and as on date working as Superintendent.

2.The petitioner having come to know that one P.Sakthivel who is stated to be below the petitioner in the list maintained for compassionate appointment was appointed to the post of Junior Assistant on 07.08.1998 i.e., ahead of the petitioner and he has been drawing more salary than the petitioner, made a claim for granting the benefit of service to the petitioner on par with the said P.Sakthivel. The basis for the claim of the petitioner is that



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father of the petitioner died on 16.04.1989 and whereas the the father of the said P.Sakthivel died on 15.07.1989 and that the name of the petitioner was included in the list maintained for compassionate appointment at Sl.No.290 and whereas the name of the said P.Sakthivel was included at 313A but the said P.Sakthivel was appointed to the post of Junior Assistant with effect from 07.08.1998 and the petitioner was appointed only on 24.10.1998, thus the petitioner claims seniority with effect from 07.08.1998 i.e the date on which P.Sakthivel was appointed as Junior Assistant. The grievance of the petitioner is because the said P. Sakthivel is drawing more pay than the petitioner.

3. The claim of the petitioner was rejected by the respondents by passing the impugned order on the ground of delay as the petitioner made a claim for extending such benefits after a lapse of 22 years and secondly on the ground that the compassionate appointment cannot be claimed as a matter of right and it is only in terms of the Scheme framed by the Government, the petitioner was appointed as Junior Assistant.

4. Be that as it may, the very basis for the claim made by the



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petitioner by placing reliance on the so called seniority list maintained by respondents for compassionate appointment is totally baseless. The said list cannot be called as seniority list. The said list is only for waiting list for vacancies to arise for filling up of the same on compassionate grounds. The fathers of the petitioner and the said P.Sakthivel were working in School Education Department and Elementary Education Department respectively and their cases would be considered for appointment on compassionate grounds firstly, in the respective departments where their respective fathers worked and in case if there are no vacancies in the said department, then their case would be considered for appointment in other departments where the vacancies are available within the unit of appointment. Perhaps, for the same reason, the said P.Sakthivel might have been appointed on 07.08.1998 and petitioner was appointed on 24.10.1998 that is just about two months later than the said P.Sakthivel. Merely because that P.Sakthivel is drawing more pay than the petitioner herein cannot be a ground for the petitioner to claim appointment and to fix his seniority also from the date of appointment of the said Sakthivel. It is not the case of the petitioner that both of them are working in the same department as on date also.



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5. In the light of the above, the claim of the petitioner comparing himself with that of the said P. Sakthivel is totally baseless. Further, as already mentioned in the impugned order, the petitioner has raised the claim for the first time after lapse of 22 years and rightly the claim of the petitioner was rejected by the respondent on the ground of laches. Further, it is also relevant to take note of the stand of the respondents as stated in paragraphs 12,13 and 14 of the counter affidavit filed by the third respondent which reads as under:

“....

12. I submit that it is pertinent to note that the father writ petitioner herein was worked as B.T.Assistant (Maths) at Government High School, Kadupatti, Vadipatti Taluk, Madurai District and he died on 16.04.1989 and the application was processed through concerned District Educational Officer. At the same father of sald Sakthivel namely M.R.Palanisamy was worked as Secondary Grade Teacher at Akkaraipattipanchayat Union, Primary School, Vennandur Block, Namakkal District and he died on 15.07.1989.

13. I submit that father of writ petitioner herein rendered his service in school coming under School Education Department at Madurai District and



further the father said Sakthivel rendered his service in School coming under Elementary Educational Department at Namakkal District. Even though both the father's were served as teachers, but their service are governed by the different rules a different wing of education department. I submit that after ascertaining vacancies allocated for filling up the post of through compassionate nearly request of 100 of candidates were processed at the same time.

14. I submit that the if there is only 100 vacancies were declared vacant and the same to be filled through compassionate appointment than the first 100 persons application would be considered and on completion of process they would be given would be given appointment, only for the said purpose the seniority list is maintained in respect of application received from legal heirs of deceased. I submit that in the present case based on the application seniority received from the legal heirs of teachers working in School Education Department, the process of verification were conducted in respect of writ petitioner herein and after completion of the same he was given appointment as Junior Assistant on 24.10.1998. On the other hand application of said Sakthivel was processed based on the application seniority maintained in Elementary Education



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Department and after completion of verification said Sakthivel was given appointment as Junior Assistant on 07.08.1998.”

6. In the light of the above, this Court does not find any merit in the claim made by the petitioner or there is any error in the impugned order passed by the respondents. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2024

NCC : Yes/No

Index : Yes/No

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