



W.A(MD)No.274 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.DHANABAL**

W.A.(MD)No.274 of 2024

and

C.M.P.(MD)No.2658 of 2024

1.The Director,
Directorate of Town Panchayats,
Kuralagam,
Chennai – 600 108.

2.The District Collector,
The District Collector Office,
Tirunelveli.

... Appellants

-VS-

1.K.Mariappan

2.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.



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3.The Executive Officer,
Special Grade Town Panchayat,
Kallidaikurichi – 627 416,
Ambasamudram Taluk,
Tirunelveli District.

...

Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD)No.1575 of 2019 dated 15.06.2023, on the file of this Court and allow this writ appeal.

For Appellants : Mr.Veera Kathiravan
Additional Advocate General
For Respondent : Mr.T.Lajapathi Roy
Senior Counsel
for Mr.S.Rajasekar – for R1
Mr.T.Amjad Khan - for R3

J U D G M E N T

**[Judgment of the Court was made by
The Hon'ble CHIEF JUSTICE]**

The father of the respondent / original writ petitioner died on 11.07.1983 while in service. On or about 16.11.1984, the mother of the petitioner filed an application for appointment on compassionate ground. The petitioner at the relevant time was a minor aged two



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years. Subsequently, the petitioner was appointed on compassionate ground on or about 22.02.2008 with the appellant as a Bill Collector at Vadakarai Keezhpidaigai Town Panchayat. The petitioner was serving since then. It appears that the appellants referred to the Tamil Nadu Public Service Commission for concurrence. For long time no decision was taken. Thereafter, in the year 2018, a show cause notice was issued by the appellants to the petitioner stating that TNPSC has not accorded concurrence, as such the services of the petitioner is required to be terminated and the petitioner was not regularised and was discharged from service under order dated 09.01.2019. The same was assailed by the petitioner by filing the writ petition in W.P.[Md]No. 1575 of 2019. The learned Single Judge allowed the said writ petition under order dated 15.06.2023. Aggrieved thereby, the State has filed the present appeal.

2.The learned Additional Advocate General strenuously contends that the law as it stood in the year 1984 ie., the date on which the application was made, is that the application should be made within three [3] years and the appointment has to be made within three [3] years. The petitioner was aged two years and as such the petitioner could not have been appointed. The mother of the petitioner did not seek appointment for herself. After lapse of three [3] years, no



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appointment can be made. According to the learned Additional Advocate General, the compassionate appointment is not a right. The law as it stood at that date did not permit appointment after three [3] years. The petitioner was appointed temporarily in the year 2008. The concurrence has to be obtained from the TNPSC as per the G.O. (Ms)No.80 dated 02.03.2016. In the absence of the concurrence from the TNPSC, the petitioner could not have been regularised *inter alia* he is rightly discharged from service.

3. Learned Counsel for the respondent / writ petitioner submits that the requirement of concurrence from the TNPSC has been dispensed with under the G.O.(Ms)No.18 dated 23.01.2020. The application was made within one year. The learned Single Judge has conceded the said aspect.

4. There is no dispute with the proposition that appointment on compassionate ground is not a right. It flows from the executive scheme promulgated from time to time. The purpose and object of compassionate appointment is to provide immediate succor to the family of the deceased dying in harness.

5. There is no dispute that the father of the petitioner died in the



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year 1983 and at that time, the petitioner was only two years old. The application was made, the petitioner secured the necessary qualification, he has passed S.S.L.C and thereafter the present appellants appointed the petitioner on 22.05.2008 and posted the petitioner as Bill Collector at Vadakarai Keeezhpidaigai Town Panchayat. The petitioner since then is continuously working. On or about 20.09.2010, the proposal was sent by the appellants to TNPSC for concurrence. For a period of about 8 years, the TNPSC sat over the proposal and subsequently, as per the show cause notice issued by the appellant, the concurrence was refused. The petitioner is sought to be discharged after rendering 11 years of service with the appellants.

6. We are apprised of the fact that during the pendency of the writ petition, the order of discharge was stayed by the Court and the petitioner was continuing in service and today also he continues in service. It is more than 10 years the petitioner is in service. Today, he would become age barred for service at any other place. The petitioner is not at fault. The petitioner possesses the necessary qualification required for the post. No fraud or misdeed can be attributed to the petitioner. It also further needs to be considered that as per the subsequent G.O.(Ms)No.18 dated 23.01.2020, the procedure for obtaining concurrence from TNPSC for regularisation of appointments



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on compassionate ground has been dispensed with. Though it is the contention of the learned Additional Advocate General that the same would apply to the appointments made after the said G.O., however, it needs to be considered that appointment on compassionate ground is a beneficial policy of the State and the benefit of the same also can be given to the person in service, at the time of the said G.O. coming into force.

7.The learned Single Judge has exercised discretion in a proper manner and the appellate Court has to be loath in interfering with the discretion exercised by the learned Single Judge.

8.Considering all the aforesaid conspectus of the matter, we are not inclined to interfere with the discretion exercised by the learned Single Judge.

9.The Writ Appeal as such is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.



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[S.V.G.,

C.J.]

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[P.D.B., J.]

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THE HONOURABLE CHIEF JUSTICE
and
P.DHANABAL, J.

MR

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