



W.A(MD)No.979 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.979 of 2024
and
CMP(MD)No.7095 of 2024**

1. The Director of School Education,
DPI Campus, Chennai 6.

2. The Joint Director of School Education (Personnel),
DPI Campus, Chennai 6.

3. The Chief Educational Officer,
Madurai District.

4. The Block Educational Officer,
Madurai North, Madurai District.

... Appellants

vs.

N.Karthikeyan

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 15.02.2024 made in W.P(MD)No.27964 of 2023.

For Appellants : Mr.D.Sadiq Raja, Additional Government Pleader
For Respondent : Mr.T.Aswin Rajasimman



W.A(MD)No.979 of 2024

JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

This writ appeal has been directed against the order passed by the Writ Court dated 15.02.2024 made in W.P(MD)No.27964 of 2023.

2. The respondent's father one Nagarajan, was working in the 4th appellant's office and he died in harness while he was in service on 18.10.2015, leaving the family, including the respondent/writ petitioner, who is the son of the deceased.

3. After the death of the father, the respondent/writ petitioner being the son, seeking compassionate appointment had given application on 13.06.2016.

4. The said application has been rejected by the order passed by the Chief Educational Officer i.e., the 3rd appellant, vide his proceedings dated 03.11.2023.

5. Challenging the said order, the respondent/writ petitioner filed the afore-stated writ petition, which was allowed by the learned Judge through the impugned order dated 15.02.2024.



W.A(MD)No.979 of 2024

WEB COPY

6. Heard Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the appellants and Mr.T.Aswin Rajasimman, learned counsel appearing for the respondent/writ petitioner.

7. In the rejection order dated 03.11.2023, the 3rd appellant i.e., the Chief Educational Officer, has stated the reasons that, as per G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the ceiling has been fixed at Rs.2,00,000/-, within which income, if the family of the deceased is struggling to meet both ends, then only, the family can be considered to be an indigent family. Only in that indigent circumstances, the compassionate appointment request could be considered.

8. However, according to the 3rd appellant, the total earning of the family of the deceased, including the pension and family pension received by the family of the deceased, the yearly income was Rs.3,66,168/-.

9. Since the said total income of the family exceeds the Rs.2 Lakhs limit as per G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the family cannot be construed as an indigent family and therefore,



W.A(MD)No.979 of 2024

the plea raised by the respondent/writ petitioner to seek for compassionate appointment, was rejected.

10. However, the learned Judge, who considered the said writ petition, has found that, subsequently, the Government of Tamil Nadu issued a rule called, The Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, [in short, "the Rules"], where, there has been a provision under Rule 3(3)(c), where, there has been an explanation provided stating that, for the purpose of the rule, "a family is in indigent circumstance" means, a family having an income of not more than rupees three lakh per annum from all sources, provided that, the family pension of the deceased Government servant or the pension of the medically invalidated Government servant, as the case may be, shall be excluded.

11. Since these rules had come into effect from 08.03.2023 i.e., at the time of consideration of the application and passing of the order, rejecting the application on 03.11.2023, the import of the said rules alone shall prevail. Therefore, the application of the import of the rules as provided under G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, stated supra, cannot be made applicable.



W.A(MD)No.979 of 2024

12. Therefore, the learned Judge of the Writ Court, having calculated the annual income of the family as Rs.2,02,548/-, which is less than three lakh rupees as per Rule 3 of the Rules and therefore, the family can very well be construed as an indigent family, thereby, it becomes eligible to seek for compassionate appointment. By reaching such conclusion, the learned Judge allowed the said writ petition.

13. Even though some attempt has been made by the learned Additional Advocate General appearing for the appellants to assail the order impugned passed by the learned Judge, we do not find any merits in the said contentions made by the learned Additional Government Pleader. The reason being that, since the Rules have come into effect from 08.03.2023 and the application of the respondent/writ petitioner also having been considered, was rejected only in November 2023, at that time, the Rules have been in force. Therefore, what has been stated under Rule 3 of the Rules alone shall prevail and would be applicable to the case of the respondent/writ petitioner, where, the ceiling was Rs.3,00,000/-, whereas, the income of the family as found by the learned Judge is only Rs.2,02,548/-, which cannot be disputed, as the income by way family pension arising out of the death of the employee, shall be excluded as per the proviso to the said explanation of Rule 3. Therefore, there



W.A(MD)No.979 of 2024

has been every justification on the part of the learned Judge in setting aside the order impugned before the Writ Court and allowing the writ petition, by giving a direction to consider the case of the respondent/writ petitioner for compassionate appointment within a time frame of six weeks.

14. In this regard, learned Additional Advocate General would further contend that, sofaras the consideration of the compassionate appointment is concerned, once the applicant becomes eligible under the scrutiny, his or her name would be placed in the waiting list prepared by taking the district as a unit. If that being so, chronologically, based on the waiting list only, according to the vacancy that arises for compassionate appointment, as only 5% of the vacancies alone earmarked for compassionate appointment, such kind of appointments should be given from among the wait listed candidates being maintained in every district or unit.

15. Therefore, the time bound direction given by the learned Judge through the impugned order, fixing the time limit of six weeks, may not be justifiable. Therefore, to that extent, to modify the order, learned Additional Government Pleader has made request.

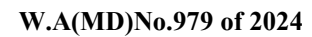


W.A(MD)No.979 of 2024

16. In this context, learned counsel appearing for the respondent/writ petitioner has stated that, the respondent's entitlement to seek for compassionate appointment since has been confirmed by invoking the Rules 2023, no doubt, he would be in a position to get a chance of compassionate appointment, provided, if his name is immediately included in the waiting list. Accordingly, as per the waiting list chronologically, as and when the turn of the respondent/writ petitioner comes, he will get such an appointment. Therefore, for that reason, the order passed by the learned Judge, which is impugned herein, cannot be assailed successfully by the appellant, he contended.

17. We have considered the said rival submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court .

18. As has been discussed herein above, the learned Judge having applied the provisions of the Rules, has allowed the said writ petition and for the said reason, we do not find any error in the said approach of the learned Judge and therefore, the impugned order has to be sustained. Insofar as the time bound direction that was given by the learned Judge is concerned, since already some job seekers under compassionate appointment in the unit i.e., the



19. Resultantly, the following orders are passed in this appeal:

20. With this direction and modification of the order impugned, this Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Neutral Citation : Yes / No



W.A(MD)No.979 of 2024

bala

WEB COPY

- To
1. The Director of School Education,
DPI Campus, Chennai 6.
 2. The Joint Director of School Education (Personnel),
DPI Campus, Chennai 6.
 3. The Chief Educational Officer,
Madurai District.
 4. The Block Educational Officer,
Madurai North, Madurai District.



WEB COPY



W.A(MD)No.979 of 2024

R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

bala

W.A(MD)No.979 of 2024

13.06.2024