



WP(MD). No.12028 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06.06.2024

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THE HON'BLE Ms.JUSTICE R.N.MANJULA

WP(MD) No.12028 of 2022

P.Manikandan

... Petitioner

Vs

1. The Director General,
Office of the Director General,
Archaeological Survey of India,
Ministry of Culture, Janpath, New Delhi – 110 011.
2. The Deputy Director,
Office of the Director General,
Archaeological Survey of India
Ministry of Culture,
Janpath, New Delhi – 110 011.
3. The Superintending Archaeologist,
Indian Archeology Department,
St.George Fort, Chennai - 9.
4. The Senior Conservation Assistant,
Indian Archeology Department,
Senior Assistant Maintaining Division,
Periyakovil Campus, Thanjavur.

... Respondents



WP(MD). No.12028 of 2022

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 order in F.No.14-13/2019-Adm-II Government of India, Archaeological Survey of India dated 18.05.2022 passed by the 2nd respondent and quash the same and consequently direct the respondents to provide appropriate job on the basis of compassionate ground.

For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.P.Subbiah

ORDER

Heard Mr.S.Ajmal Khan, learned counsel for the petitioner and Mr.P.Subbiah learned counsel for the respondents.

2.The petitioner, who is aggrieved by the orders of rejection passed by the respondent authorities on the application filed by the petitioner seeking compassionate appointment in view of the death of the petitioner's father on 09.02.2000, has filed this writ petition.

3. Earlier, the very same petitioner has filed another writ petition in WP(MD) No.1330/2020, wherein, the following order has been passed:



WEB COPY



WP(MD). No.12028 of 2022

“4.The scheme for compassionate appointment is a welfare scheme and the Hon'ble Apex Court as well as this Court have consistently held that such welfare scheme should be viewed pragmatically and liberally. However, such consideration can only be within the parameters of the regulations. In the instant case, though the scheme provides for compassionate appointment, the fact remains that the minimum post to which the compassionate appointment can be considered would be the Multi-Tasking Staff (Protection and care of Monument/Heritage Sites) and the relevant qualification prescribed for that post is a pass in the Matriculation examination or its equivalent. When the petitioner does not possess the required educational qualification for the minimum post in the second respondent/Department, it would not be appropriate for this Court to issue a mandamus, sought for in the present writ petition.

5.At this juncture, it would be appropriate to refer to Rule 6 of the Ministry of Culture, Archaeological Survey of India (Group 'C' Non-Gazetted Posts) Recruitment Rules, 2014, which empowers the Central Government to relax any of the provisions of these rules, in respect of any class or category of persons, in its discretion. The petitioner would submit that he is willing to take the minimum post in the Department. In case, the second respondent is of the view that the prescribed educational qualification can be relaxed for the purpose of accommodating the petitioner to any of the posts in their Department, such a lenient consideration may be extended to the petitioner. In this connection, the petitioner is granted liberty to make a fresh representation to the second respondent in the lines indicated above and on receipt of such representation, the second respondent shall consider it as expeditiously as possible.”



WP(MD). No.12028 of 2022

WEB COPY

4. Pursuant to the above direction in the said writ petition on 20.02.2020, the application of the petitioner was rejected on the ground that the petitioner's family do not have economical distress, which is the essential aspect of considering the application of the petitioner.

5. The learned counsel for the petitioner submitted that the order of the Court has not been complied in letter and spirit by giving relaxation to the petitioner.

6. In fact, the above order has been passed only taking into consideration of the relaxation and hence, there is no reason stated in the impugned order dated 18.05.2022 about the disqualification of the petitioner, in view of the non possessing of any minimum requirement of educational qualification.

7. Since the order has been passed only on the economical status of the petitioner, the matter is purely well within the discretion of the authorities to assess the economical status and hence, I do not find any



WP(MD). No.12028 of 2022

reason to interfere with the impugned order. Accordingly, the writ petition is dismissed. No costs.

06.06.2024

NCC : Yes/No
Index : Yes/No

RR

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R.N.MANJULA, J.

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