



W.P.(MD)No.11700 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD)No.11700 of 2024

and

W.M.P(MD)Nos.10451 and 10453 of 2024

B.Ulaganathan

Block Development Officer,  
Melur Union,  
Madurai District.

... Petitioner

vs.

The District Collector,  
Office of the District Collector,  
Collectorate Office,  
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned order of the respondent dated 10.08.2023 in Na.Ka.No.10695/2021/OO.Va.5 and the impugned order of the respondent in Na.Ka.No.10695/2021/OO.Va.5 dated 15.04.2024 and quash the same.

For Petitioner

:Mr.S.Ramsundarvijayaraj

For Respondents

:Mr.M.Lingadurai,

Special Government Pleader



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W.P.(MD)No.11700 of 2024

## **ORDER**

Mr.M.Lingadurai, learned Special Government Pleader takes notice for the respondents.

2. The petitioner has filed this writ petition challenging the order of the respondent, dated 10.08.2023 in Na.Ka.No.10695/2021/OO.Va.5 and the impugned order of the respondent in Na.Ka.No.10695/2021/OO.Va.5 dated 15.04.2024.

3. The petitioner got appointment on compassionate ground to the post of Junior Assistant subsequent to the death of his father by name Mr.Balasubramaniam, who was working as an Assistant in Mailadumparai Union, Madurai District. The petitioner's father died in harness on 12.02.1994 while he was in service and the petitioner got appointment in the year 1995.

4. However, now the petitioner has been given with the charge memo alleging that the petitioner has suppressed the material fact about



W.P.(MD)No.11700 of 2024

his mother's employment as a Teacher in a Government aided school at a time when the petitioner got appointment.

5. The learned counsel for the petitioner submitted that the charge memo has been given only in pursuant to the complaint given by a third party by name Mr.Sethuramalingam. The said complainant has filed a writ petition in W.P(MD)No.9710 of 2022 under which an order was passed on 12.09.2022 by giving the following directions:

*“6. Therefore, in the light of the aforesaid facts and as per the instructions from the second respondent, this Court is inclined to direct the second respondent to complete the enquiry as early as possible without any delay and it is made clear that the petitioner and the third respondent shall co-operate for the enquiry.*

*7. With the above direction, the writ petition is disposed of. There shall be no order as to costs.”*

6. So far as the petitioner is concerned, he does not dispute the fact that his mother was working as a Teacher. However, she got retired in the year 2006 itself. The contention of the petitioner is that his mother



W.P.(MD)No.11700 of 2024

was not in good terms with his father and therefore, the petitioner was not benefitted by the employment of his mother during the relevant point of time. The learned counsel for the petitioner further stated that the charge memo has been issued nearly after 27 years of service.

7. Whenever an application is submitted for compassionate appointment, a duty is cast upon the Department to verify the facts submitted by the applicant. After getting the services of the petitioner for more than 27 years, all of a sudden, the Department had woken up suddenly and started to take action alleging that there was suppression of material facts. Interestingly, the persons who could have been instrumental in passing the application of the petitioner for compassionate appointment (even it is presumed that he suppressed a material fact) were allowed to go scot free and retired from service peacefully.

8. The above observation had been made not with an idea that whoever manages to get a compassionate appointment by suppressing the material facts should not be subjected to action. But, there should be a



W.P.(MD)No.11700 of 2024

time limit for taking such action and it cannot be the practice of the employer to initiate action after several years of service and at the verge of their retirement.

9. In this regard, it is relevant to refer to the earlier order of this Court, dated 26.04.2024, made in W.P(MD)No.26571 of 2022(***K.Saravanan v. the Joint Director of School Education and another***), wherein tis Court has held as under:

*“4. Having allowed the petitioner to complete his entire tenure of service, the first respondent had chosen to place the petitioner under suspension only on the date of superannuation and by not permitting to retire. In fact, on the day when the petitioner was suspended, he was not even given with the charge memo. However, in the order rejecting his superannuation, it is stated that until the enquiry into grave charges pending against the petitioner has been concluded, the petitioner will not be allowed to retire. But the charge memo itself has been furnished to the petitioner subsequent to his attaining the age of superannuation and not any time, while he was in service.*



W.P.(MD)No.11700 of 2024

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**10.** In the instant case, even though the petitioner has not reached the age of retirement, the fact that he had completed 27 years of service cannot be disputed. After having allowed the petitioner to work in the Department and availed his services, now a threat should not be posed against him that his employment is uncertain. The essential facts which ought to have been verified at the earliest point of time were omitted to be verified.

**11.** The learned Special Government Pleader submitted that the petitioner has given a request to peruse certain documents in order to give his explanation to the charges framed against him.

**12.** The petitioner is at liberty to peruse the relevant papers and offer his explanation or additional explanation if any. The inordinate delay involved in any action would deprive the affected party from making an effective defence. However, this Court wishes to make an observation that on receipt of explanation from the petitioner, the respondent shall consider the same in the light of the above observation. As stated already, the petitioner can submit his explanation or additional



W.P.(MD)No.11700 of 2024

explanation if any within a period of two weeks and thereafter, the respondent shall take a call in this matter.

**13.** With the above observations, this writ petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

**05.06.2024**

NCC: Yes/No  
Index : Yes/No  
PM

To

The District Collector,  
Office of the District Collector,  
Collectorate Office,  
Madurai.



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W.P.(MD)No.11700 of 2024

**R.N.MANJULA, J.**

PM

**W.P.(MD)No.11700 of 2024**

**05.06.2024**