



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 13.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

W.A(MD)No.1351 of 2024

1.The District Collector,
(Noon Meal Section),
Office of the District Collector,
Madurai District, Madurai.

2.The Commissioner,
T.Kallupatti Panchayat Union,
T.Kallupatti,Maduai District.

... Appellants/Respondents

.Vs.

P.Pandiarajan

... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.667 of 2024, dated 15.3.2024.

For Appellants : Mr.M.Sarangan
Additional Govt.Pleader

For Respondent : Mr.P.Mahendran



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JUDGMENT

(Order of the Court was made by **P.VELMURUGAN.,J**)

This Writ Appeal is directed against the order passed by this Court in W.P(MD)No.667 of 2024, dated 15.3.2024.

2.The respondent's mother was working as Assistant Cook in Tamil Nadu Government Noon Meal Scheme at K.Perumalpatti Panchayat Union Primary School, T.Kallupatti Panchayat Union, Madurai District..While in service, she died on 17.4.2018 survived by the respondent and two of his sisters. The Petitioner/respondent herein made an application, dated 25.6.2018 before the first appellant for compassionate appointment on the ground of sudden death of his mother. Since the Writ Petitioner's application was not considered by the appellants, he filed a writ petition in W.P(MD)No.15559 of 2023 before this Court. This Court also directed the respondents therein to consider the representation of the Petitioner, dated 25.6.2018 and pass appropriate orders by order, dated 24.8.2023. Based on the said order, the Writ Petitioner sent a detailed representation along with a copy of the order of this Court. Since the appellants have not taken any steps to consider his representation based on the order of this



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Court, he issued a contempt notice. Thereafter, the first respondent passed a rejection order on 22.12.2023. Challenging the same, the respondent filed a writ Petition in W.P(MD)No.667 of 2024, The Writ Court after considering the matter, allowed the Writ Petition and set aside the rejection order passed by the first appellant, dated 22.12.2023 and directed the appellants to provide compassionate appointment to the respondent herein within a period of 12 weeks from the date of receipt of a copy of the order. Challenging the same, the appellants have filed the present Writ Appeal before this Court.

3.The learned counsel for the appellants submitted that as per G.O.Ms215, Social Welfare and Nutritious Meals Programme Department, dated 8.9.1998, only female members are eligible to be appointed in the post of Organizers and cooks and that in G.O.Ms.No.198, dated 25.10.2007, only when no female members are available in the family of the deceased Noon Meal staff, the male member can be considered and in such a case, he could be appointed only as a cook in Puratchithalaivar Dr.MGR Nutririous Meal Programme as per G.O.Ms.No.215, Social Welfare and Noon Meal Programme, dated 8.9.1998. The said power has been given only to the District Colletors themselves namely, the



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first appellant herein. In this case, female legal heirs of the deceased worker is available. Therefore, the respondent is only a male member and he could not be recommended and even as per G.O.Ms.No.78, Social Welfare and Noon Meal Programme Department, dated 25.10.2026 followed it with a clarification of the Government in Govt.Letter No.13658/NMP 4-2/2016-1, dated 17.2.2017 by stating that if the female heirs of the deceased worker is available, the male member should not be recommended and the same was communicated to all the District Collectors and subordinates by the Director of Social Welfare and Women Empowerment Department, Chennai vide letter No.12751/E3-4/2016, dated 17.3.2017.

4.Further he would submit that the Government of Tamil Nadu has taken a policy decision and issued Government Order in G.O.Ms.No.48, Social Welfare and Women Empowerment(NM 4.2) Department, dated 18.8.2021 only female heirs of the deceased workers of Noon Meal Programme Scheme could be given appointment on compassionate grounds basing on their eligibility criteria and that no male legal heirs are eligible to be given appointment on compassionate grounds. In this case, the deceased worker was having three legal heirs among



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them, 2 of them are female legal heirs and one is the respondent, a male legal heir.. When the female heirs are available and as per various Government Orders and Government schemes and also various circulars issued in this regard by the Department to the District Collectors that the female members should be given preference, but however, when there is no suitable female heirs are available in the family, then the request of the male heirs can be considered.

5. Admittedly, in this case, the deceased worker died while she was in service, leaving behind two daughters and one son. Two daughters already got married and they are living with their husband. The respondent herein is aged about 22 years at the time of death of the deceased worker and he is also a qualified person and other two female heirs have also given their no objection letter for providing appointment on compassionate grounds to the respondent. So based on that, the respondent has submitted the application before the appellants. The appellants did not consider his request as per the earlier order made in the Writ Petition, despite the fact that the Court has given a direction for consideration. Without considering the factual matrix in this case, simply they rejected quoting the Government Orders. Therefore, the respondent has



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challenged the rejection order and filed the Writ Petition against the impugned order.

6.The learned Single Judge considered all the aspects and also the Government orders and considering the fact that there are three legal heirs, out of which two female legal heirs have given no objection letter and that the female legal heirs also already got married and left the parental home and living in the matrimonial home. Though the learned Additional Government Pleader citing the Government Orders stated that the marital status is not a bar for getting employment on compassionate grounds whereas in this case female heirs are not claiming any appointment on compassionate grounds and they also given no objection letter. The only available legal heir is the male legal heir, ie, the respondent. Though he is a male heir, there is no total bar to give appointment to the male heir. Though the Government of Tamil Nadu has taken a policy decision as per G.O.Ms.No.48, Social Welfare and Women Empowerment(NM 4.2) Department, dated 18.8.2021 only female heirs of the deceased worker of Noon Meal Scheme should be given opportunity of appointment on compassionate grounds and no male legal heirs are eligible to be given appointment, but the



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object behind this is to engage female and women empowerment. But however other Government Order in G.O.Ms.No.198, dated 25.10.2007, it has been clarified that when no suitable female legal heirs are available in the family of the deceased Government staff, then male legal heirs can be considered for appointment on compassionate grounds. Admittedly in this case, the other two female heirs have given no objection letter and also they stayed with their husbands and at the time of the deceased worker, the respondent was unmarried person who was depending on the income of the deceased worker and the scope of appointment on compassionate grounds is to replace the immediate suffering of the deceased worker. Since the other two female members are already got married even during the lifetime of the deceased worker and the only person is the respondent who is also a dependant of the deceased worker as on the date of filing the application and therefore, the learned Single Judge considered all the facts that there is no legal bar to appoint the male heir on compassionate grounds, the Writ Petition was allowed. Considering the fact that the female legal heirs have given no objection letter and and there is no legal impediment to appoint the respondent on compassionate grounds, this Court does not find any reason to interfere with the order passed by the learned Single Judge, except the reason



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given by the appellants for rejection that the respondent/applicant is a male legal heir and other two female legal heirs are available. Admittedly, in this case, the other two female legal heirs have given no objection letter and also even during the lifetime of the deceased worker the female legal heirs got married and left the parental home. The respondent alone stayed with the deceased worker as dependant and hence sought for appointment on compassionate grounds. For all the above reasons, this Court finds no merit in the Writ Appeal and the same deserves to be dismissed.

7.In fine, the Writ Appeal stands dismissed. No costs.

[P.V.,J.] [K.K.R.K.,J.]
08.08.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

vsn

JUDGMENT MADE IN
W.A(MD)No.1351 of 2024

13.08.2024