



W.P.(MD)No.19652 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.19652 of 2022

S.Kaleeswaran

... Petitioner

vs.

1.State Represented by the Secretary,
Municipal Administration and Water Supply Department,
St. George Fort,
Chennai – 09.

2.The Commissioner,
Municipal Administration,
Chepauk, Chennai-05.

3.The Commissioner,
Tiruchirappalli Corporation,
Tiruchirappalli.

.... Respondents

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 in pursuant to the impugned order passed by the third respondent in Na.Ka.No.6550/2021/C1(Mai) dated 11.08.2021 and quash the same and consequently to direct the respondents to provide employment to the petitioner on compassionate grounds based on the



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Educational Qualification within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner	:Mr.V.Muthukamatchi
For R-1 & R-2	:Mr.M.Ramesh, Government Advocate
For R-3	:Mr.K.R.Kishore Ram for M/s.R.B.Law Associates

ORDER

The petitioner has filed this writ petition challenging the impugned order passed by the third respondent in Na.Ka.No.6550/2021/C1(Mai), dated 11.08.2021 and to direct the respondents to provide employment to the petitioner on compassionate grounds based on his educational qualification within a stipulated time.

2. The petitioner's father, who was working as 'Water Supplier' in the third respondent Corporation from the year 1987, died on 13.12.2002. Immediately, the mother of the petitioner made an application for appointment on compassionate ground. Thereafter, after attaining majority, the petitioner made an application for compassionate



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appointment. However, the petitioner's application was rejected on the ground that the employment of the petitioner's father was not regularized and hence, the benefit cannot be extended to the petitioner.

3. The learned counsel for the petitioner drew the attention of this Court to the earlier decision rendered in ***S.Gandhimathi v. The Deputy Registrar of Cooperative Society and others*** reported in ***2003 Writ L.R.479***, wherein this Court has held that by applying the Rule of Fiction, the deceased shall be deemed to have been regularised, in view of his long service. Relevant portion of the said judgment is extracted as under:

“14. By applying the rule of fiction the deceased is deemed to have been regularised. In terms of The Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, the deceased ceased to be a casual and deemed to be a regular employee with permanent status on his completing 480 days and on the date of death he was a permanent employee and therefore his son for whose benefit the writ petition has been filed is entitled to be considered for appointment on compassionate ground.



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The contention that the deceased always remained a casual labourer as no orders have been passed even though proposal was sent for regularisation cannot be sustained.”

4. In the instant case also, the petitioner claims that his father was appointed in the year 1997 and he died during the year 2007 after having put 10 years of service and hence, Rule of Fiction can be applied and it can be presumed that the petitioner's father would have been regularized.

5. Taking into account of the long services of the petitioner's father and by applying the Rule of Fiction, I feel that the third respondent be given suitable direction to reconsider the petitioner's application.

6. In view of the above stated reasons and also in the light of the judgment held in ***S.Gandhimathi's case(cited supra)***, the impugned order passed by the third respondent dated 11.08.2021, is set aside and the third respondent is directed to reconsider the application of the petitioner



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and pass orders afresh within a period of six weeks from the date of receipt of a copy of this order.

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7. With the above directions, this writ petition stands disposed of. No Costs.

06.06.2024

NCC: Yes/No
Index : Yes/No
PM



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To
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- 1.The Secretary,
State of Tamil Nadu,
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- 2.The Commissioner,
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Chepauk, Chennai-05.
- 3.The Commissioner,
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R.N.MANJULA, J.

PM

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