



W.A.(MD)No.1020 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.09.2024

PRONOUNCED ON : 24.09.2024

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.(MD)No.1020 of 2018

and

C.M.P.(MD)No.7145 of 2018

The Commissioner,
O/o.The Commissioner,
Palani Municipality,
Dindigul District.

... Appellant

vs

1.V.Muruganandam

2.The Principal Secretary to Government,
Department of Municipal Administration and
Drinking Water Supply,
Secretariat, St.George Fort, Chennai – 9.

3.The Joint Director (Administration),
O/o.The Commissioner of Municipal Administration,
Chepauk, Chennai – 5.

4.The Commissioner of Municipal Administration,
Chepauk, Chennai – 5. ...Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 27.02.2018 passed in W.P(MD)No.1279 of 2018.

For Appellants :Mr.J.Parekh Kumar
for Mr.P.Srinivas
For R1 :Mr.A.Rajini
For R2 to R4 :Mr.M.Senthil Ayyanar
Government Advocate

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The second respondent/Commissioner, Office of the Commissioner, Palani Municipality, Dindigul District in W.P.(MD)No.1279 of 2018, has filed the Writ Appeal questioning the order dated 27.02.2018 passed by a learned Single Judge in W.P.(MD)No.1279 of 2018.

2.W.P.(MD)No.1279 of 2018 had been filed by the first respondent herein, V.Muruganandam, in the nature of a Mandamus seeking a direction against the 1st and 2nd respondents in the Writ Petition, namely, the Principal Secretary to Government, Department of Municipal Administration and



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Drinking Water Supply, Secretariat, St.George Fort, Chennai and the Commissioner, Office of the Commissioner, Palani Municipality, Dindigul District to appoint him as Sweeper in the second respondent/Palani Municipality on compassionate ground within a time frame fixed by the Court.

3.In the Writ Petition, it had been contended that the Writ Petitioner's mother was working as Sweeper in Palani Municipality for over 15 years. She died on 16.03.2010 while in service. The Writ Petitioner had given an application dated 28.03.2012 seeking appointment on compassionate ground. It was contended that his case was recommended by the Commissioner, Palani Municipality, Dindigul District on two occasions. But, the third respondent in the Writ Petition, namely, the Joint Director (Administration), Office of the Commissioner of Municipal Administration, Chepauk, Chennai, by a communication dated 27.12.2016 had informed the Commissioner, Palani Municipality, that it was not possible to appoint the Writ Petitioner on compassionate ground. The appointment had been declined only on the ground that the Writ Petitioner was above the age of 35 years.



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4.A learned Single Judge of this Court in the course of his order had observed that the Writ Petitioner belonged to Schedule Caste community and that till he attains the age of 45 years, he would be eligible for consideration for appointment. It was also observed that the very scheme of the appointment on compassionate ground was intended to relieve the family in distress. It had therefore been held that the communication dated 27.12.2016 by the third respondent in the Writ Petition, the Joint Director (Administration), Office of the Commissioner of Municipal Administration, Chepauk, Chennai, was erroneous and it was therefore quashed. The notice, dated 01.03.2017 by the Commissioner, Palani Municipality, Dindigul District, was also quashed. A direction was also issued to the Commissioner for Municipal Administration, Chennai, to appoint the Writ Petitioner on compassionate ground as Sweeper in Palani Municipality within a period of eight weeks from the date of receipt of a copy that order.

5.The fourth respondent in the Writ Petition, the Commissioner for Municipal Administration, Chennai, had not questioned the veracity of the order. On the other hand, the Commissioner, Palani Municipality, Dindigul District, had filed the present Writ Appeal.



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6.In the grounds of Writ Appeal, it had been stated that there was no sanctioned post available in the appellant Municipality for accommodating the Writ Petitioner. It had therefore been stated that the order of the learned Single Judge has to be set aside. It was also contended that the maximum age limit for general candidates for appointment is 35 and in respect of candidates from Schedule Caste and Scheduled Tribe, a relaxation of five years is available and thus, the maximum age limit is 40 years. It had therefore been contended that the Writ Petitioner was ineligible to be appointed on compassionate ground.

7.Heard arguments advanced by Mr.J.Parekh Kumar, learned Counsel for Mr.P.Srinivas, learned Counsel for the Writ Appellant, Ms.A.Rajini, learned Counsel appearing for the first respondent/Writ Petitioner and Mr.M.Senthil Ayyanar, learned Government Advocate appearing for 2nd - 4th respondents.

8.The facts are not in dispute. The mother of the Writ Petitioner by name, Akkammal was working as Sweeper in the office of the Commissioner, Palani Municipality, Dindigul District for nearly 15 years.



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She died on 16.03.2010 while in service. The Writ Petitioner, V.Muruganandam, was her legal heir and in the affidavit filed in the support of the Writ Petition, he had stated that his family was poverty stricken and he had no source for livelihood and that he was toiling hard to bring up his children and to take care of their educational and livelihood expenses. It had been stated that he had given several representations seeking appointment on compassionate ground and more particularly, had given an application dated 28.03.2012. Since no order had been passed, the Writ Petition had been filed in the nature of a Mandamus.

9.The learned Single Judge had however examined the order dated 27.12.2016 passed by the third respondent in the Writ Petition, the Joint Director (Administration), Office of the Commissioner of Municipal Administration, Chennai, wherein, he had stated that compassionate appointment can be offered only to those legal heirs, who are between the ages 18 and 35 and that the Writ Petitioner was aged 42 years and therefore, he could not be granted appointment. The learned Single Judge had also observed the letter of the appellant herein, the Commissioner, Palani Municipality, dated 01.03.2017 issued in pursuance of the aforementioned



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proceedings dated 27.12.2016 by which letter dated 01.03.2017, the appellant herein had rejected the claim of the Writ Petitioner to be appointed as Sweeper in Palani Municipality. The learned Single Judge had quashed both aforesaid orders, even though the Writ Petition had been filed in the nature of a Mandamus. He had *suo motu* impleaded the Joint Director (Administration), Office of the Commissioner of Municipal Administration, Chennai and the Commissioner for Municipal Administration, Chepauk, Chennai as third and fourth respondents in the Writ Petition.

10.It is the contention of the learned Counsel for the appellant that the age of the Writ Petitioner at the time of death of his mother was 42 years and therefore, he cannot be considered for appointment. In this connection, the learned Counsel for the appellant had placed reliance on the order of a Division Bench of this Court in ***W.P.No.19033 of 2014***, dated 14.03.2024, in ***K.Padmavathy vs the Principal District and Sessions Judge, Vellore District and another***, wherein, the Division Bench had observed as follows:

“7.In the present case, the brother of the petitioner was working in the Judicial Department and died in harness on 27.04.2013 and the petitioner was



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unmarried. Thus, she made an application on 18.12.2013. Since she crossed the maximum age limit of 35 years, the Authorities rejected the application. The petitioner as of now is aged about 46 years.

8. The compassionate appointment scheme being a special scheme and concession, the age relaxation granted for reserved category candidates under the Service Rules is not applicable. The terms and conditions stipulated under the Scheme alone is to be followed. The age relaxations are applicable only in respect of recruitments in accordance with the Service Rules in force and while extending the reservation to the reserved categories. Therefore, the age relaxation granted to the reserved class category under the Recruitment Rules cannot be applied to the scheme of compassionate appointment, which is a stand alone special scheme, wherein, the terms and conditions stipulated alone are to be applied. Therefore, grant of age relaxation, educational qualification relaxation or any other relaxation under the Service Rules would not arise at all.”

11.It had therefore been contended that the order of the learned Single Judge is erroneous and has to be set aside.

12.The learned Counsel for the first respondent herein/Writ Petitioner however argued vehemently stating that the scheme of compassionate appointment is to provide succor to the family of a Government employee at the time of death of the Government employee to economically uplift the family. The learned Counsel placed reliance on G.O.Ms.No.33, dated

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08.03.2023, Labour Welfare and Skill Development (Q1) Department. By this Government Order, the Government of Tamil Nadu had notified Tamil Nadu Civil Services (Appointment on Compassionate Ground) Rules, 2023, in exercise of the powers conferred to the proviso to Article 309 of Constitution of India. The learned Counsel placed reliance on Rule 6, which is as follows:

“6.Age limit.— (1) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, on the date of application for appointment,-

(a) the spouse of the deceased or medically invalidated Government servant or the parent of the deceased Government servant, must not have completed fifty years of age; and

(b) the son, daughter, brother or sister of the deceased or medically invalidated Government servant must not have completed forty years of age.

(2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment:

Provided that appointment shall not be provided unless the applicant completes eighteen years of age.” page 24



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13.It was therefore contended by the learned Counsel for the first respondent that the minimum age limit for the son is 40 years and since the Writ Petitioner belonged to Schedule Caste Community, there would be a further relaxation of five years and therefore, even though the Writ Petitioner was aged 42 years at the time of death of his mother, he would still be eligible for consideration to be appointed to the post to which his mother held at the time of death, namely, Sweeper in Palani Municipality.

14.We have carefully considered arguments advanced and perused the materials available on record.

15.The fact that the mother of the first respondent was working as Sweeper in the office of the appellant and died while in service cannot be denied or disputed. The fact that the first respondent herein was 42 years at the time of death of his mother cannot be disputed. The only issue which has to be answered is whether the first respondent could be considered for grant of employment as Sweeper on compassionate ground consequent to the death of his mother.

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16.The Writ Petition had been filed in the nature of a Mandamus seeking a direction to the official respondents for consideration of the representation given by the first respondent/Writ Petitioner. The learned Single Judge however examined the order passed by the Joint Director (Administration), who had directed rejection of the application of the first respondent/Writ Petitioner on the ground that he was aged 42 years, more than 35 years and had struck down the same.

17.It is the contention of the learned Counsel for the Writ Petitioner that necessary age relaxation should be granted, since the Writ Petitioner/first respondent belongs to Schedule Caste community.

18.In the meanwhile, during the pendency of the Writ Appeal, the Government had issued G.O.(Ms).No.33, dated 08.03.2023, Labour Welfare and Skill Development (Q1) Department. It is to be noted that the Writ Appellant is Palani Municipality and not the Joint Director (Administration), Office of the Commissioner of Municipal Administration, Chennai, who had been *suo motu* impleaded by the learned Single Judge



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and whose proceedings had been quashed by the learned Single Judge. The order of the appellant herein was a consequential order. In the said order, the appellant herein had stated that there was no post available to accommodate the first respondent/Writ Petitioner. Both the proceedings of the Joint Director and of the appellant/Commissioner, Palani Municipality give different reasons for rejecting the application of the first respondent/Writ Petitioner.

19.The issue whether G.O.(Ms)No.33 dated 08.03.2023 can be applied or not has not been directly argued before this Court. In these circumstances, since the first respondent herein had filed the Writ Petition only in the nature of a Mandamus and the learned Single Judge had quashed the proceedings of the third respondent in the Writ Petition and the letter of the second respondent/appellant herein, we would direct a complete re-examination of the entire issue by the appellant in the first place and by the Joint Director (Administration), Municipal Administration, Chennai.

20.We would direct the first respondent to forward a fresh representation citing the economic conditions of his family as on date and



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we further direct the jurisdictional Tahsildar to verify the contents of such representation regarding the economic condition of the family of the first respondent and forward those remarks to the appellant herein, Commissioner, Palani Municipality, Dindigul District. We would further direct the appellant, Commissioner, Palani Municipality, Dindigul District, to pass a comprehensive order after following due procedure and also taking into consideration the effect of not only G.O.(Ms)No.33, dated 08.03.2023, Labour Welfare and Skill Development (Q1) Department, but also the effect of G.O.(Ms)No.18, Labour Welfare and Skill Development (Q1) Department, dated 23.01.2020, which had also been cited before us with respect to the application of the first respondent/Writ Petitioner/V.Muruganandam, who had sought appointment as Sweeper in the Office of the Commissioner, Palani Municipality, Dindigul, on compassionate ground consequent to the death of his mother, Akkammal.

21.In view of the passage of time of more than a decade from the date of death of Akkammal/mother of Writ Petitioner, we would direct the first respondent/Writ Petitioner to forward a fresh representation to the appellant within a period of three weeks from the date of receipt of a copy of this



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order. We would further direct the appellant/Commissioner, Palani Municipality, Dindigul District to, within two weeks from the date of receipt of such representation, direct the jurisdictional Tahsildar to make an enquiry about the economic condition of the first respondent/Writ Petitioner and forward a report. Such report must be filed within a period of four weeks from the date of such communication from the appellant. We would direct the appellant/Commissioner, Palani Municipality, to pass further orders on the representation given by the first respondent giving due consideration to the report of the jurisdictional Tahsildar within a period of four weeks from the date of receipt of such report from the jurisdictional Tahsildar.

22.In view of the directions issued, the proceedings of the Joint Director (Administration), Municipal Administration, Chennai, dated 27.12.2016 and the communication of the appellant dated 01.03.2017 are declared to be otiose and null as a fresh examination of the entire issue has been directed by us.



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23.The Writ Appeal stands disposed of in accordance with the directions issued. No costs. Consequently, connected miscellaneous petition is closed.

[C.V.K., J.] & [J.S.N.P., J.]
24.09.2024

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

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To

1.The Principal Secretary to Government,
Department of Municipal Administration and
Drinking Water Supply,
Secretariat, St.George Fort, Chennai – 9.

2.The Joint Director (Administration),
O/o.The Commissioner of Municipal Administration,
Chepauk, Chennai – 5.

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Judgment made in
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