



W.P.(MD).No.23381 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 15.10.2024

ORDER PRONOUNCED ON : 19.10.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.23381 of 2024
and WMP(MD).No.19780 of 2024**

B.Ulaganathan

....Petitioner

Vs

1.The Director of Rural Development and
Panchayat Raj Department
Panagal Building
Chennai 600 015

2.The District Collector
Madurai District
Madurai

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.10695/2021/Vu.Va-5 dated 26.09.2024 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader



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ORDER

The instant writ petition has been filed by a Block Development Officer challenging the order passed by the second respondent herein on 26.09.2024 wherein a punishment of compulsory retirement has been imposed upon the petitioner.

(A)Facts leading to the filing of this writ petition are as follows:

2.The petitioner's father who was working as an Assistant in K.Mayiladumparai Panchayat Union Office had died in harness on 12.02.1994. The petitioner who had passed SSLC examination, was appointed to the post of Junior Assistant on compassionate grounds on 22.09.1995. Later, the petitioner was promoted as Deputy Block Development Officer and thereafter as Block Development Officer. One of his relatives namely C.Sethuramalingam had given a representation to the authorities on 29.12.2021 alleging that the petitioner had secured appointment on compassionate grounds suppressing the fact that his mother is already a Government employee. Since the said representation was not considered, the said C.Sethuramalingam had filed W.P(MD).No.9710 of 2022 seeking a mandamus to take necessary action based upon his representation. This Court by an order dated 12.09.2022 had directed the District Collector, Madurai to complete the enquiry as early as possible. The petitioner was



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issued with a charge memo on 10.08.2023. Since his explanation was not satisfactory, an enquiry officer was appointed. The enquiry officer filed a report on 08.04.2024 holding that the charges levelled against the petitioner have been proved. The petitioner was issued with a second show cause notice along with the enquiry report calling upon his explanation. The petitioner has submitted his explanation on 24.07.2024 and 24.08.2024. Thereafter, the present impugned order has been passed on 26.09.2024 imposing a punishment of compulsory retirement. The said order is under challenge in the present writ petition.

(B)Contentions of the learned counsels appearing on either side:

3.The learned Senior Counsel appearing for the writ petitioner has raised the following contentions:

(i)The petitioner was appointed in the year 1995 and a charge memo having been issued in the year 2023 after a period of 29 years with inordinate delay.

(ii)Though several Government Orders are referred to in the impugned order for the disqualification of the writ petitioner from seeking employment, those Government Orders are not applicable to the writ petitioner.

(iii)As many as 10 documents were referred to in the charge memo. However none of those documents were furnished at the time



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of enquiry.

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(iv) Under G.O.Ms.155 Labour and Employment Department dated 16.07.1993, there is no absolute bar for making compassionate appointment when one of the dependants is already in employment. The said fact ought to have been considered by the authorities.

(v) The application seeking compassionate appointment was presented only by the mother on behalf of the petitioner. Therefore, there is no suppression by the writ petitioner at any point of time.

(vi) The learned Senior Counsel after referring to Rule 18(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955 contended that no reasons have been assigned by the disciplinary authority for imposing the punishment of compulsory retirement and therefore, the order is liable to be set aside for violation of principles of natural justice.

(vii) The disciplinary proceedings have been initiated at the behest of a relative of the writ petitioner and he has no locustandi at all and therefore, the order of punishment is liable to be quashed.

4. Per contra, the learned Special Government Pleader appearing for the respondents had contended that the petitioner's mother was working as a Secondary Grade Teacher even while his father was in service. The said fact was suppressed, while submitting an application seeking compassionate



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appointment. Only when a relative made a representation, the suppression came to the light of the department. Therefore, there is no delay on the part of the department in initiating disciplinary proceedings. He had further contended that there is no dispute with regard to the fact that the petitioner's mother was employed, when the petitioner secured employment on compassionate grounds. In such circumstances, the alleged procedural irregularities in the conduct of enquiry would not vitiate the final results. He had further stated that when one of the dependants of the deceased Government employee is already employed, there is absolute bar for granting employment on compassionate grounds. Hence, he prayed for dismissal of the writ petition.

5.I have considered the submissions made on either side and perused the material records.

(C) Discussion:

6.The respondents had filed a typed set of paper in which the application filed by the mother of the writ petitioner seeking compassionate appointment is enclosed. A perusal of the letter and the enclosure reveal that the mother of the petitioner has specifically stated that she is unemployed. It is not disputed by the petitioner that his mother was employed as a Secondary Grade Teacher when his father had passed away and when an application seeking compassionate appointment was presented. The mother of the



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petitioner had passed away only in the year 2005. Therefore, it is clear that when the petitioner was granted appointment on compassionate grounds, his mother was working as a Secondary Grade Teacher.

7.As per G.O.Ms.No.225 Labour and Employment Department, dated 15.08.1972 family of the deceased Government servant should be under indigent circumstance to seek employment under compassionate grounds. As per G.O.Ms.No.998 Labour and Employment dated 08.05.1981, if there is already any earning member of the deceased Government servant, the other dependants of the deceased Government servant will not be eligible for compassionate appointment. However, in case, if the employee dependant is not supporting the family, then the compassionate appointment could be considered for the other dependant.

8.When the petitioner was granted appointment on compassionate grounds on 22.09.1995, G.O.Ms.No.998, Labour and Employment, dated 08.05.1981 was in force. That apart, the application seeking compassionate appointment itself was presented only by the mother of the petitioner. The petitioner was just 21 years old and he was only under care of his mother at the relevant point of time. Therefore, it is clear that the petitioner was not eligible to get appointment on compassionate grounds on the date when the appointment order was issued in his favour.



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9.Only when a complaint was lodged by a relative of the petitioner in December 2021, the Department came to know about the suppression of the material facts. Therefore, the delay in initiation of the proceedings cannot be considered to be a fatal.

10.It is the further contention of the learned Senior Counsel that in the impugned order, no proper reasons have been assigned for passing the order of compulsory retirement. Despite the findings that the petitioner had suppressed the material facts and secured employment on compassionate ground, the second respondent has shown leniency and has imposed only an order of compulsory retirement considering the length of service of the writ petitioner. Therefore, it is clear, only after considering all the relevant facts, the order made in the writ petition has been issued.

11.In view of the above said deliberations, there are no merits in the writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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2024

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