



W.P.(MD).No.26193 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26193 of 2022

and

W.M.P.(MD)No.20366 of 2022

M.Saran Karthick

... Petitioner

Vs.

1.The Additional Director of Medical
& Rural Health Service,
Directorate of Medical & Rural
Health Service,
Chennai-600 006.

2.The Joint Director of Health Service,
Ramanathapuram,
Ramanathapuram District.

3.The Medical Officer,
Government Hospital,
Muthukulathur,
Ramanathapuram District.

... Respondents



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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 on the file of the 1st respondent in connection with the impugned order passed by him vide his proceedings in Na.Ka.No.63781/Ne.Pe.8/1/2018-2, dated 14.06.2021 and quash the same as illegal and arbitrary and consequently direct the respondents to appoint the petitioner as Junior Assistant under compassionate ground in the light of the G.O.Ms.No.1499, Labour & Employment (Q1) Department dated 03.08.1989 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalai Mutharasu

For Respondent : Mr.C.Baskaran
Government Advocate

ORDER

The present writ petition has been filed for a Writ of Certiorarified Mandamus, to quash the impugned order dated 14.06.2021 passed by 1st respondent vide his proceedings in Na.Ka.No.63781/Ne.Pe.8/1/2018-2, consequently, directing the respondents to appoint the petitioner as Junior Assistant under compassionate ground in the light of the G.O.Ms.No.1499,



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Labour & Employment (Q1) Department dated 03.08.1989 within the time limit that may be stipulated by this Court.

2. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

3. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner's father worked as a Hospital worker in the 3rd respondent Government Hospital. While in service, he died on 17.06.2001. He was survived by his wife and the petitioner and the petitioner's younger brother. The petitioner's mother made an application on 21.02.2002, seeking an appointment under compassionate ground, within one year from the date of death of the employee. During the pendency of the said application, the petitioner's mother suffered spinal cord issue. Hence, the petitioner's mother gave letter to the 2nd respondent on 13.02.2006 in person which sought for substitution of her name



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with that of the petitioner in the application seeking appointment on compassionate ground instead of her. By relying on G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, the 1st respondent has passed the impugned order dated 14.06.2021, rejecting the application made by the petitioner's mother, stating that the petitioner was a minor at the time of original application dated 21.02.2002 and even on the date of the 2nd application dated 13.02.2006, the petitioner was a minor. On that basis, the impugned order came to be passed, rejecting the petitioner's mother application under compassionate ground. Challenging the same, this writ petition came to be filed.

4. The learned Counsel appearing for the petitioner vehemently submitted that the application seeking an appointment under compassionate ground was made within a period of one year from the date of death of the employee. Only because of the health issues, the petitioner's mother sought to substitute the name of the petitioner instead of her and sought employment for the petitioner. That apart, he further submitted that the application was submitted in the year of 2002, but the same was rejected only in the year 2021. The 3rd respondent had considered and rejected the petitioner's application



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submitted by the petitioner's mother after the lapse of around 20 years. It is further submitted by the learned Counsel appearing for the petitioner that the 1st respondent failed to scrutinize the consolidated certificate where it is revealed that the petitioner and his family are living in penurious condition. Hence, the petitioner seeking an appointment under the compassionate ground and pressed for allowing the Writ Petition.

5. Per contra, the learned Government Advocate appearing for the respondents has filed a counter and he vehemently submitted that the application of the petitioner seeking an appointment under compassionate ground was made at the first instance by the petitioner's mother on 21.02.2002. However, at that time, there was a bar for recruitment of vacant posts in all departments vide G.O.(MS).No.212, Personal and Administrative Reforms (P) Department, dated 29.11.2001. The said Government order was lifted by G.O.(MS).No.14, Personal and Administrative Reforms (P) Department, dated 07.02.2006. Again, the petitioner's mother made an application to the 2nd respondent on 13.02.2006 to appoint the petitioner on compassionate ground instead of her. However, considering the fact that the petitioner was a minor at



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the time of the application dated 21.02.2002 and 13.02.2006, the petitioner's mother application came to be rejected. He also vehemently submitted that on the basis of G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, the impugned order passed by the 3rd respondent is legally sound. Hence, the petitioner is not entitled for any appointment and pressed for dismissal of the Writ Petition.

6. As submitted by the learned Government Advocate, though the petitioner's mother made an application, at the first instance on 21.02.2002, there was a ban on appointment vide G.O.(MS).No.212, Personal and Administrative Reforms (P) Department, dated 29.11.2001, the said Government order was lifted by G.O.(MS).No.14, Personal and Administrative Reforms (P) Department, dated 07.02.2006. But, the petitioner's mother promptly made an application again on 13.02.2006 after the 5 days of aforesaid G.O.(MS).No.14, seeking an appointment under compassionate ground for the petitioner instead of her. The learned Government Advocate submitted that the said application came to be rejected relying upon G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 and the date of death of the



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employee was 17.06.2001 and the date of the application was 21.06.2002 and the date of 2nd application was 13.06.2006.

7. A careful perusal and reading of the G.O.Ms.No.42 Labour and Employment (Q1) Department dated 12.03.2007 would reveal that there is no bar for appointing the petitioner for the reason that he was a minor at time of the application. None of the clauses of the aforesaid G.O. debar the guardian of a minor to make an application on behalf of the minor under the compassionate ground on the death of the employee. That apart, this Court seriously records the carelessness on the part of the respondents in disposing of an application seeking an appointment under the compassionate ground with respect to a family suffering under penurious conditions.

8. In view of the fact that G.O.Ms.No.42 Labour and Employment (Q1) Department dated 12.03.2007 do not appreciate the respondents in any way in rejecting the application made by the petitioner's mother, this Court hereby quash the impugned order, dated 14.06.2021 and thereafter, directs the 3rd respondent to provide a suitable job to the petitioner forthwith under the



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compassionate ground, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.01.2024

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

To

- 1.The Additional Director of Medical
& Rural Health Service,
Directorate of Medical & Rural
Health Service,
Chennai-600 006.
- 2.The Joint Director of Health Service,
Ramanathapuram,
Ramanathapuram District.
- 3.The Medical Officer,
Government Hospital,
Muthukulathur,
Ramanathapuram District.



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L.VICTORIA GOWRI, J.

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