



W.P.(MD) No.19290 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.19290 of 2017

and

W.M.P.(MD) No.15614 of 2017

S.Sivajothikumar

... Petitioner

-VS-

1.The Government of Tamil Nadu
rep.by Secretary to Government
Agriculture Department
Fort St.George, Chennai-600 009

2.The Executive Engineer
Agricultural Engineering
Agriculture Department
No.17, Mannar Saraboji Nagar
Opposite to New Bus Stand
Thanjavur District

3.The Assistant Engineer
Agriculture Department
Pattukottai, Thanjavur District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the second respondent by his impugned order dated 25.05.2015 in Ka.No.A50/2015 by



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the following order dated 12.02.2015 passed by the third respondent and quash the same and thereby directing the respondents to appoint the petitioner to suitable post under the compassionate ground.

For Petitioner : Mr.M.R.S.Prabhu

For Respondents : Mr.G.Suriya Ananth
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 12.02.2015, passed by the third respondent and the consequential impugned order, dated 25.05.2015, passed by the second respondent, rejecting the petitioner's request for compassionate appointment, on the ground that the he was not having the requisite educational qualification and adequate age at the time of death of his father, who was an employee in the respondent – Department and died in harness on 26.12.2003.

2. The petitioner has challenged the impugned orders on the ground that he attained majority only in the year 2014 and only thereafter, he became eligible to be appointed on compassionate grounds on account of the death of his father, who died, while he was in service, in the year 2003. The



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petitioner also contends that the application seeking for compassionate appointment was made by his mother within a period of three years from the date of death of his father. According to him, the said application was filed on 29.04.2005. The petitioner also contends that on attaining majority, he has been continuously corresponding with the respondents seeking for compassionate appointment, but, despite the same, he has not received any response from the respondents. The petitioner also contends that in the application submitted by his mother, within the period of three years from the date of death of his father, his mother had sought for compassionate appointment only for him. He would also submit that his mother is not duly qualified to get compassionate appointment, since she has studied only upto fifth standard. According to the petitioner, by total non-application of mind and without considering the case of the petitioner sympathetically and by not adhering to the rules applicable for compassionate appointments, the respondents, in violation of the principles of natural justice, have passed the impugned orders rejecting the petitioner's request for compassionate appointment.

3. A counter affidavit has been filed by the respondents denying the contentions of the petitioner. According to them, since the petitioner was



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not eligible and duly qualified to be appointed on compassionate grounds at the time of his father's death and he did not satisfy the requirements within a period of three years from the date of death of his father, the question of granting compassionate appointment to the petitioner, at this belated stage, does not arise. They have also contended that there cannot be a reservation of vacancy till such time the petitioner becomes major, after a number of years, as compassionate appointments are given only to see that the family of the deceased employee gets immediate relief from their financial distress.

4. The following are the undisputed facts:

- (a) An application seeking for compassionate appointment was submitted by the petitioner's mother on 29.04.2005, within a period of three years from the date of death of the petitioner's father.
- (b) In the application submitted by the petitioner's mother, compassionate appointment was sought for only for the petitioner, who was studying fourth standard at that point of time and was a minor.



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- (c) The petitioner completed his tenth standard only in the year 2011 and he became a major only in the year 2014.

5. The communications enclosed in the typed set of documents filed by the petitioner along with this writ petition also disclose that the petitioner had sent several communications to the respondents, after he attained majority seeking for compassionate appointment on account of death of his father in the year 2003, while he was in service. The communications sent by the petitioner are also not disputed by the respondents, as seen from the counter affidavit filed by them before this Court. However, the said communications have not been responded to by the respondents. A grievance has also been raised by the petitioner in this writ petition that no reply was sent by the respondents for the communications sent by him seeking for compassionate appointment, which, according to him, violates the principles of natural justice. The petitioner also contended that his request ought to have been considered sympathetically considering the fact that he is the only son of the deceased employee and the compassionate appointment is required to get over his financial distress on account of the death of his father, while he was in service.



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6. Learned Additional Government Pleader appearing for the respondents drew the attention of this Court to a Judgment of the Honourable Supreme Court in the case of ***Sanjay Kumar vs. State of Bihar and others***, reported in ***AIR 2000 SC 2782***, and would submit that there cannot be a reservation of vacancy till such time, as the petitioner becomes major after a number of years, unless there is a specific provision. He would submit that the Rules of the respondents do not provide that the respondents will have to wait for the petitioner to attain majority and thereafter decide as to whether the petitioner is entitled for compassionate appointment or not. He would submit that the very basis of compassionate appointment is to see that the family of the deceased employee gets immediate relief from their financial distress. He would further submit that since the petitioner's father died in the year 2003, the question of granting compassionate appointment to the petitioner, at this point of time, does not arise.

7. Any compassionate appointment will have to be considered sympathetically. Admittedly, the petitioner was a minor when his father died, while he was in service with the respondents. He was only studying fourth standard at that point of time. He is the only son of the deceased employee. His mother had also submitted an application to the respondents seeking



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compassionate appointment to the petitioner, within a period of three years from the date of death of her husband while he was in service. The petitioner had also completed his tenth standard only in the year 2011 and he had also attained majority only in the year 2014. The petitioner has also been repeatedly seeking for compassionate appointment immediately after he attained majority, as seen from the documents filed along with this writ petition. Several of those communications were not responded to by the respondents. The respondents have also not stated prior to the passing of the impugned orders that he is not entitled for compassionate appointment on account of the fact that he was not eligible and duly qualified for compassionate appointment, when his mother had submitted an application seeking for compassionate appointment within a period of three years from the date of death of his father (employee). Only in the impugned orders, reasons have been given for rejecting the petitioner's request for compassionate appointment. Being a case of compassionate appointment, this Court, after giving due consideration to the aforementioned facts, which are not disputed by the respondents, is inclined to quash the impugned orders and remand the matter back to the respondents for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner, including granting him one personal hearing.



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8. In the result, the impugned order dated 12.02.2015, passed by the third respondent and the consequential impugned order, dated 25.05.2015, passed by the second respondent, are hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner, including granting him one personal hearing. The second respondent is directed to pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

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

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To:

1.The Secretary to Government,
Agriculture Department,
Government of Tamil Nadu,
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ABDUL QUDDHOSE, J.

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