



W.P.No.19179 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.19179 of 2020

and

W.M.P.No.and 23756 of 2020

C.Venkatesh

.. Petitioner

Versus

1.The Secretary to the Government,
Department of Labour and Employment Training,
Secretariat, Chennai 600 009.

2. The Commissioner,
Office of the Commissioner,
Corporation of Coimbatore,
Coimbatore District.

3. Corporation Education Officer,
Coimbatore Corporation,
Coimbatore – 641 001.

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent, pertaining to denial of compassionate ground appointment to petitioner's son one Mr.V.Krishnasamy vide Letter No.Na.Ka.No.8167/2019/k6 dated



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24.11.2020, quash the same and consequently direct the 2nd respondent to provide appropriate employment to the petitioner's son one Mr.V.Krishnasamy on compassionate ground in 2nd Respondent's office and pass orders.

For Petitioner : Mr.P.Saravanan

For Respondent-1 : Mr.T.M.Rajangam,
Government Advocate

For Respondents 2 and 3 : Mr.Najeeb Usman Khan,
Standing Counsel

ORDER

This petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent, pertaining to denial of compassionate ground appointment to petitioner's son one Mr.V.Krishnasamy vide Letter No.Na.Ka.No.8167/2019/k6 dated 24.11.2020, quash the same and consequently direct the 2nd respondent to provide appropriate employment to the petitioner's son one Mr.V.Krishnasamy on compassionate ground in 2nd Respondent's office and pass orders.



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2.The case of the petitioner is that he worked as a Sweeper in the second respondent office for more than 22 years. Thereafter, he was affected due to Coronary artery disease and bedridden and suffered from breathing issue. Due to which he applied for Voluntary retirement and he was referred to Medical Board to examination by the Deputy Commissioner, Coimbatore vide order dated Na.Ka.No.8667/2019/k-11 dated 23.09.2019. After examination the Doctors certified that the petitioner was unfit for Sanitary work. Pursuant to which the petitioner was permitted to retire on 08.12.2019 and the same was approved by the second respondent on 27.02.2020 vide proceedings Na.Ka.No.8167/2019.K.11. It is pertinent to note that while applying for voluntary retirement the petitioner has made an application for compassionate appointment for his son on 06.05.2019 before the second respondent, who inturn rejected the same vide order dated 24.11.2020 in Na.Ka.No.8167/2019/k6, which has given rise to this petition.

3. The learned counsel for the petitioner submitted that the petitioner is the sole bread winner of the family and now they are in



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indigent circumstances as the petitioner has given voluntary retirement.

The learned counsel further stated the petitioner is incurring huge medical expenses and he was not able to manage the family. He further stated that the impugned order passed by the second respondent is illegal and the same needs interference by this Court.

4. The learned Government Advocate appearing for the respondent has filed a counter affidavit, wherein, it is stated that the petitioner is 53 years at the time of making an application on compassionate grounds. Hence, as per G.O.Ms.No.18 Labour and Employment Department dated 23.01.2020 the application is liable to be rejected. They have further stated that after voluntary retirement the entire pensionary benefits were settled to the petitioner and he is receiving pension also. Hence, prays to dismiss this petition.

5. I have given anxious consideration to either side submission and perused the materials available on record.



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6. Before advertizing further it would be relevant to go through G.O.Ms.No.33 Dated 08.03.2023 and the relevant rules relating to the present case are extracted hereunder:

Rule 2 (g)

“medically invalidated” means a Government Servant ordered to be retired from service with not less than five years of left over service, on medical invalidation in the public interest under Fundamental Rule 56(2) read with rule 24(b) of rules for “Leave Procedure in the case of Government Servants”, made under Fundamental Rule 74 and 'medical invalidation' shall be construed accordingly.

Rule 6(b)

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

Rule 17

Where the Government Servant is of the opinion that it is necessary or expedient so to do, it may by order, for reason to be recorded in writing relax any of the provisions of these rules with respect to any person where the operation of these rules causes any hardship.



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7. It would be just and appropriate to go through The Fundamental Rules of Government Servant with regard to retirement age and the same is extracted hereunder:

56. (1) Retirement on Superannuation: (a) Every Government Servant in the Superior service shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty-eight years. He Shall not be retained in service after that age except with the sanction of the Government on public grounds, which must be recorded in writing but he shall not be retained after the age of sixty years except in very special circumstances.

*Provided that this clause shall not apply to Government servant who are treated as in superior service for the purpose of these rules but as in the Tamil Nadu Basic Service for the purpose of pension. **Such Government Servants as well as all basic servant shall retire on attaining the age of sixty years.***

Provided further that on and from the 1st January 1993, a District Judge, Chief Judicial Magistrate, Sub-ordinate Judge or District Munsif-cum Judicial Magistrate, who in the opinion of the High Court, Madras, has potential for continued useful service beyond the age of fifty-eight years, shall retire from service on attaining the age of sixty years.



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8. On a perusal of the above rules it is made clear that the petitioner has satisfied all the eligibility criteria for making an application for compassionate appointment, as per Rule 2 (g) Government Servant ordered to be retired from service with not less than five years of left over service, on medical invalidation. The petitioner has retired at the age of 53 years and he has left nearly 7 years of service as the retirement age is 60 as per the Fundamental Rules of Government Servant in Rule No.56. (1), wherein it has been clearly stated that the persons who are categorized as basic servants shall retire on attaining the age of sixty years. As per Rule 6(b) the petitioner's son does not completed forty years of age. Hence, the contention of the respondents when an employee who has retired from service on completing 53 years of age is not eligible to seek for compassionate ground appointment to his legal heirs cannot be accepted.

6. For the foregoing reasons, the impugned order dated No.Na.Ka.No.8167/2019/k6 dated 24.11.2020, is hereby quashed and the respondents are directed to receive the compassionate application of the



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petitioner and pass appropriate orders on merits and in accordance with law.

7. With the above observations this writ petition stands allowed.

No order as to costs. Consequently, the connected miscellaneous petition is closed.

24.02.2025

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To

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Department of Labour and Employment Training,
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