



W.P.No.25253 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.12.2025

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.P.No.25253 of 2023

and

W.M.P.No.24667 of 2023

1. Union of India,
rep. By The Chief Secretary to Government,
Government of Puducherry, Puducherry.
2. The Director,
Directorate of Social Welfare,
Government of Puducherry, Puducherry.
3. The Assistant Director,
Government of Puducherry,
Social Welfare Department Observation Home,
Cuddalore Road, Ariyankuppan,
Puducherry – 605 007.

..Petitioners.

Vs.

1. The Central Administrative Tribunal,
Rep. By the Registrar,
Additional City Civil Court Buildings,
High court Campus,
Chennai – 600 014.

2. K.lyyanar,



W.P.NOo25253 of 2023

S/o O,Kathavarayan (Late)
No.19, N Block, Thiyagu Mudaliar Nagar,
Puducherry – 605 004.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to call for the records pertaining to the order passe din O.A.No.942/2017 dated 11.08.2022 on the file of the Central Administrative Tribunal, Madras and quash the same.

For Petitioners : Mr.R.Syed Mustafa,
Spl.Govt.Pleader (Puducherry)

For Respondents : R1 – Tribunal
Mr.K.Shyam Sundar for R2

ORDER

S.M.SUBRAMANIAM,J.

Under assail is the order dated 11.08.2022 passed by the Central Administrative Tribunal, Chennai Bench, (hereinafter referred to as “CAT”) in O.A.No.942/2017.

2. Union of India is the writ petitioner. Challenging the order of CAT mainly on the ground that the scheme of compassionate appointment has



W.P.NOo25253 of 2023

been expanded for the purpose of providing appointment to an in-eligible

legal heir of the deceased employee who served as daily rated employee

in the Department. Under the approved scheme of the Government of India, the Scheme of compassionate appointment is inapplicable to the legal heirs of the daily rated employee and it is applicable only to the regular employees. That apart, the wife of the deceased daily rated employee, initially, filed an application on 27.04.2011, which was not pursued by the wife of the employee. After a lapse of about eight years, the second respondent, son of the deceased employee, filed an application on 17.01.2017 and the said application came to be rejected by the competent authority on 28.02.2017 mainly on the ground that the compassionate appointment scheme of Government of India is not applicable to the daily rated employees. The CAT, by expanding the scope granted the relief of appointment, which would defeat the purpose of compassionate appointment and thus, the Union of India has preferred the present writ petition.

3. The learned counsel for the second respondent would



W.P.NOo25253 of 2023

strenuously oppose the above stating that the application submitted by the

wife of the deceased employee in the year 2011 ought to have been considered by the competent authority during the relevant point of time.

The learned counsel for the second respondent would further submit that the father of the second respondent was murdered. That apart, the deceased employee served in the department as daily rated employee for about 20 years and thus, for all purposes he is to be treated as a regular employee for providing compassionate appointment. The CAT considered the length of services rendered by the deceased employee and granted the relief, which may be upheld.

4. This Court has considered the rival submissions made between the parties to the lis on hand.

5. Governing legal principles on compassionate appointments have been now settled by the Constitutional Courts across the country and the Hon'ble Apex Court of India.



W.P.NOo25253 of 2023

6. Scheme of compassionate appointment is a special scheme and

not a constitutional scheme of appointment. Compassionate appointment is a concession and can never be claimed as an absolute right. Scheme is to be implemented scrupulously in consonance with the terms stipulated and any expansion by the judicial fora would result in infringement of the constitutional rights of lakh and lakh of youths of our great Nation, aspiring to secure public employment through open competitive process. All public appointments are to be made under the constitutional schemes. Certain special schemes by way of concession are introduced by the Union of India and the States for the welfare of the employees and the compassionate appointment scheme is one such scheme. The purpose and object of the scheme is to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the indigent circumstances of the family and the related facts are to be ascertained before providing appointment on compassionate appointment.

7. Compassionate appointments are not made on merit basis. Rule of reservations are not followed. Ability, suitability is not ascertained. It is



W.P.NOo25253 of 2023

provided merely on the ground that the applicant is the legal heir of the deceased employee. Thus, the terms and conditions stipulated are to be scrupulously followed by ascertaining source of income, eligibility for appointment under the scheme. Any misplaced sympathy in the matter of compassionate appointment would undoubtedly affect the efficiency in public administration. Efficiency in public administration is the constitutional mandate. Thus, compromising the said principle would affect the public interest.

8. The High Court, in exercise of the powers of judicial review cannot expand the scheme of compassionate appointment by exercising its discretion or by expanding the scope of the scheme in force. Any such attempt would cause prejudice to the public interest and will open Pandora's box wherein many such similarly placed persons will also seek compassionate appointment and ultimately, the appointments under the constitutional scheme will be defeated.

9. In the present case, the scheme of the Government of India for



W.P.NOo25253 of 2023

compassionate appointment has been placed before this Court. Clause 2.

(B) Note-II defines, *“Government Servant” for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or adhoc or contract or re-employment basis.”*

10. In the present case, the nature of appointment of the deceased employee are not disputed between the parties. The father of the second respondent served as a daily rated employee. While so, the scheme itself is not applicable and therefore, the CAT cannot expand the scope of the scheme so as to provide a public employment which is in violation of the constitutional principles and would infringe the rights of numerous eligible meritorious candidates who are all longing to secure public employment by participating in open competitive process.

11. In view of the above reasons, the order of the Central Administrative Tribunal dated 11.08.2022, passed in O.A.No.942/2017, is set aside. Accordingly, the Writ Petition stands allowed. No costs.



W.P.No25253 of 2023

Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

(S.M.S.,J.) (C.K.,J.)

02.12.2025

**S.M.SUBRAMANIAM,J.
AND
C.KUMARAPPAN,J.**

vsi

W.P.No.25253 of 2023



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W.P.NOo25253 of 2023

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W.M.P.No.24667 of 2023

02.12.2025