



W.P.(MD)No.460 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD) No.460 of 2025

and

WMP (MD) Nos.316 and 318 of 2025

M.Saravanakumar

: Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to
Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 9.

2. The Commissioner,
Adi Dravidar and Tribal Welfare
Department,
Ezhilagam, Chempauk,
Chennai - 600 005.

3. The District Adi Dravidar
and Tribal Welfare Officer,
Thoothukudi District,
Collectorate Campus,
Thoothukudi.

: Respondents



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PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 2nd Respondent in connection with the impugned order passed in his proceedings in Na.Ka.No.Ra3/28990/2023 dated 28.11.2023 and quash the same and consequently direct the Respondents to appoint the petitioner under compassionate ground in any suitable post in Class - IV Service based on his educational qualification within the time limit that may be stipulated by this Honourable Court.

For Petitioner : Mr.K.Gurunathan

For Respondents : Mr.M.Siddharthan

Addl. Government Pleader

ORDER

The writ petition has been filed challenging the rejection order passed by the second respondent dated 28.11.2023 and consequently, to direct the respondents to appoint the petitioner under compassionate ground in any suitable post in Class - IV Service based on his educational qualification.

2. The learned counsel for the petitioner submits that the petitioner's father was appointed as a Sweeper on 11.01.2023 on a consolidated pay of Rs.2,000/- and was subsequently brought under the



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Special Time Scale of Pay vide G.O.Ms.No.81, Adi Dravidar Welfare Department, dated 10.08.2020. The petitioner's father passed away on 27.03.2023, leaving behind the petitioner, the petitioner's mother and his sister. Consequently, the petitioner submitted an application for compassionate appointment on 13.09.2023, which was scrutinized by the third respondent. Thereafter, the third respondent sought clarification from the second respondent regarding the inclusion of the petitioner's name in the seniority list for compassionate appointment, by way of proceedings dated 02.11.2023. However, without considering the said proposal, the second respondent rejected the application by relying on G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) Department, dated 09.03.2023, through proceedings dated 28.11.2023.

3. The petitioner contends that the second respondent treated the petitioner's father as if he were appointed on a contract basis, without taking into account the fact that he had subsequently been brought under the Special Time Scale of Pay, thereby rendering his post indispensable and permanent in nature.



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4. The learned counsel for the petitioner further relied upon a Division Bench judgment of this Court dated 19.09.2024 in W.A.(MD) No.1077 of 2022 [***V.Balamurugan v. The District Collector, Dindigul and Others***], wherein this Court held as under:

“ 9. A reading of the above would show that the persons, who are working as Sweepers in the Panchayats were placed under a special time scale of pay with the intention of regularizing their services and integrating them into the regular service. If that is the Government's intention, then, Sweepers granted a special time scale of pay should be considered as regular employees for all practical purposes. Therefore, the ground on which the appellant's claim was rejected by the authority and confirmed by the Writ Court is imaginary, stemming from a misinterpretation of G.O.(Ms)No.39, Rural Development and Panchayat Raj (E5) Department, dated



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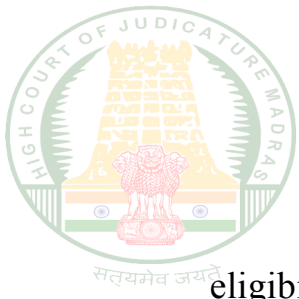


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07.05.2013.

10. No doubt, compassionate appointment cannot be considered a bounty. At the same time, the benefit should be extended to the deserving heirs of individuals, who had served the Government. As we had already pointed out, the father of the appellant served the Government as a Sweeper for 26 long years without any break. Denying the benefit to such a person would, in our opinion, project the Government as well as this Court in a bad light.”

5. The learned Additional Government Pleader vehemently opposes the contentions raised by the learned counsel for the petitioner and submits that the claim for compassionate appointment has been rightly rejected by the second respondent in accordance with the prevailing Government Orders and policy. He further contends that the compassionate appointment scheme is an exception to the general recruitment process and must be strictly construed in accordance with the



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eligibility criteria and government policy in force at the time of the application. In this regard, G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) Department, dated 09.03.2023, clearly stipulates that individuals appointed on a contract/consolidated pay basis are not entitled to be considered for compassionate appointment.

6. Upon careful consideration of the submissions made on either side, materials placed on record and also taking in to consideration the Division Bench judgment of this Court in W.A.(MD) No.1077 of 2022 [*V.Balamurugan v. The District Collector, Dindigul and Others*], dated 19.09.2024, this Court finds merit in the contentions raised by the learned counsel for the petitioner. It is not in dispute that the petitioner's father was initially appointed on a consolidated pay but however, he was subsequently brought under the Special Time Scale of Pay vide G.O.Ms.No.81, Adi Dravidar Welfare Department, dated 10.08.2020. The respondents have rejected the petitioner's application solely based on G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) Department, dated 09.03.2023, without considering the factual distinction that the petitioner's father was no longer serving under a purely contractual arrangement at the time of his demise. The rejection order dated



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28.11.2023, therefore, suffers from non-application of mind and is liable to be set aside.

7. Accordingly, the impugned rejection order dated 28.11.2023 is hereby set aside and the matter is remitted back to the respondent. The concerned respondent is directed to consider the case of the petitioner in the light of the judgment of this Court dated 19.09.2024 (cited supra) and pass fresh orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of three months from the date of receipt of a copy of this order.

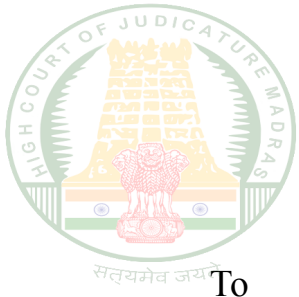
8. This writ petition stands disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

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To

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Represented by its Secretary to
Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 9.

2. The Commissioner,
Adi Dravidar and Tribal Welfare
Department,
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3. The District Adi Dravidar
and Tribal Welfare Officer,
Thoothukudi District,
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VIVEK KUMAR SINGH, J.

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