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W.A.(MD)No.508 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

W.A(MD)No.508 of 2022

M.Ramkumar

... Appellant /
Writ Petitioner

Vs.

- 1.The Secretary to Government,
Department of School Education,
St.George Fort,
Chennai – 600 009.
- 2.The Director of School Education,
Office of the Director of School Education,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Pudukottai District.
- 4.The District Educational Officer,
Office of the District Educational Officer,
Aranthangi,
Pudukottai District.

... Respondents /
Respondents



Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act pleased to set aside the order dated 12.04.2022 in W.P(MD)No.22773 of 2021 and allow the writ appeal as prayed for.

For Appellant : Mr.G.Prabhu Rajadurai
for Mr.C.Mahadevan

For Respondents : Mr.V.Om Prakash
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2.The father of the appellant was employed as Assistant in the Educational Department. He passed away while in service on 14.10.1998. The appellant herein was then studying in college. An application for appointment on compassionate ground was submitted on 21.01.2000. Unfortunately, for the appellant, it was not considered immediately. Only in the year 2012, it was taken up for consideration. On 13.06.2013, the application was rejected on the ground that the petitioner's brother Thiru.Ganesh had secured Government employment. Challenging the said rejection order, the petitioner filed W.P(MD)No. 18129 of 2013. The writ petition was dismissed on 11.11.2013.



3.The appellant herein failed to mount any challenge to the said order. Instead he filed one more writ petition in W.P(MD)No.8895 of 2015. The writ petition was allowed vide order dated 04.06.2015. Challenging the said order, the Department filed W.A(MD)No.278 of 2016. The said Writ Appeal was allowed and the order dated 04.06.2015 allowing W.P(MD)No.8895 of 2015 was set aside. Aggrieved by the same, the appellant herein filed Rev.Applc(MD)No.60 of 2020. Review Application was allowed on 06.07.2021 and the judgment made in W.A(MD)No.278 of 2016 was modified by permitting the appellant to submit a fresh representation to the third respondent. The District Education Officer, Aranthangi was directed to consider the same on merits and in accordance with law within a period of five months. Pursuant to the said direction, the appellant submitted a fresh representation. It was also rejected on 01.12.2021. Challenging the same, the appellant filed W.P(MD)No.22773 of 2021. The writ petition was dismissed on 12.04.2022. Challenging the same, this writ appeal came to be mounted.

4.The learned counsel appearing for the appellant reiterated the contentions set out in the memorandum of grounds of Writ Appeal. He



relied on the order of Hon'ble Supreme Court made in ***Civil Appeal No.***

7047 of 2022 ((2022) 10 SCC 696) (Delhi Jal Board Vs Nirmala Devi)

and Civil Appeal No.4103 of 2022 (Malaya Nanda Sethy Vs State of Orissa & Others). The learned counsel submitted that what should be

taken into account is the position that obtained on the date of submitting the application for appointment on compassionate grounds. His specific contention is that the Review Application filed by the applicant was allowed and the order made in W.A(MD)No.278 of 2016 had been modified when the appellant had been specifically permitted to submit a fresh representation and the authority had been mandated to consider the representation on merits and in accordance with law, the authority erred in mechanically rejecting the petitioner's request. He called upon this Court to interfere in favour of the appellant and grant relief.

5.Per contra, the learned Government Advocate submitted that the impugned order is well reasoned and that it does not call for interference.

6.We carefully considered the rival contentions and went through the materials on record.



7.The learned counsel appearing for the appellant is undoubtedly right in his contention that what should govern is the position that obtained on the date of submitting the application.

8.Unfortunately, this argument did not find favour with the learned Single Judge when the petitioner filed W.P(MD)No.18129 of 2013. The contentions now urged before us were argued before the learned Single Judge and the said writ petition was dismissed on 11.11.2013. The said order had become final. Subsequent order dated 04.06.2015 allowing W.P(MD)No.8895 of 2015 filed by the petitioner was set aside by the Hon'ble Division Bench. Merely because the petitioner was permitted to submit a representation and the authority was directed to consider the same, it cannot efface the legal consequences flowing from the dismissal order dated 11.11.2013 in W.P(MD)No. 18129 of 2013. Of course, the strict principle of resjudicate may not apply to writ proceedings. But then, we cannot lose sight of the fact that the petitioner's writ petition had earlier suffered dismissal on 11.11.2013. Since this order has become final and has not been formally challenged or set aside, we are not in the position to interfere with the impugned order.



9. There is yet another aspect to be taken note of. The appellant's father had passed away way back in the year 1998. He had submitted his application in the year 2000. When the application was not speedily considered, the appellant ought to have come at the earliest point of time seeking expeditious disposal of application for appointment on compassionate grounds. The appellant chose to keep quiet till rejection order was passed in the year 2013.

10. The Writ Appeal stands dismissed. No costs.

[G.R.S., J.] [R.P., J.]
23.01.2025

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

Note: Issue order copy on 18.02.2025.

To

1. The Secretary to Government,
Department of School Education,
St. George Fort,
Chennai – 600 009.
2. The Director of School Education,
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