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WP No. 27567 of 2013



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 27567 of 2013

and

W.M.P.No.1 of 2013

K.Magesh

Petitioner(s)

Vs

1. The Secretary To Government,
Revenue Department,
Fort St.George, Secretariat,
Chennai 600 009.

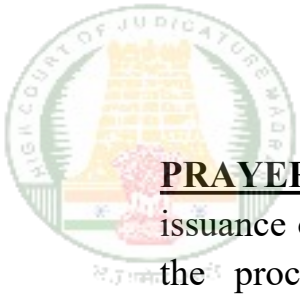
2.The Principal Secretary and
Commissioner of Survey and Settlement,
Chepauk, Chennai 600 005.

3.The Regional Deputy Director
of Survey and Land Records,
Coimbatore Collectorate Campus,
Coimbatore, Coimbatore District.

4.The Assistant Director of
Survey and Land Records,
Ooty, The Nilgiris District.

5.The Additional Director of
Survey and Land Records, Chepauk,
Chennai 600 005.

Respondent(s)



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.A4/10370/2012 dated 19.09.2013 of the 3rd respondent herein and quash the same and to direct the 3rd respondent to reinstate the petitioner in service, with all attendant benefits, and further direct the 1st respondent to regularize the service of the petitioner in the post of Field Surveyor with effect from 04.01.2000 with all attendant and consequential benefits arising thereof.

For Petitioner : Mr.M.Ravi

For Respondent(s): Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.V.Nanmaran
Additional Government
Pleader

ORDER

The challenge in this Writ Petition is to the order dated 19.09.2013 issued by the third respondent, by which the petitioner, who was appointed as a Field Surveyor on compassionate grounds, was dismissed from service on the ground that he is the son born through the second wife of the deceased employee, namely T.K. Krishnamoorthy.

2. The petitioner's father, T.K. Krishnamoorthy, died in harness on 15.11.1997 while serving as a Field Assistant. The deceased left behind his first wife, Kamalam, and their son Radhakrishnan, as well as his second wife, Devaki, and their two sons. During the lifetime of the deceased, the names of the second wife and her two sons were entered in the service records as



nominees.

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3. After the death of T.K. Krishnamoorthy, the petitioner submitted an application seeking appointment on compassionate grounds. The first wife, Kamalam, and her son Radhakrishnan also filed an affidavit dated 24.12.1997 before the Department stating that they had no objection to the petitioner being appointed on compassionate grounds. The Tahsildar, Coonoor, issued a Legal Heirship Certificate dated 02.01.1998 stating that Kamalam was the first wife, Devaki was the second wife, and that K. Mahesh and K. Ranjith were the sons born through the second wife. The certificate also recorded Kamalam, Devaki, Radhakrishnan, Mahesh and Ranjith as the legal heirs of the deceased T.K. Krishnamoorthy. The said certificate was issued on the application submitted by Devaki, the mother of the petitioner.

4. Based on the said Legal Heirship Certificate, the affidavit filed by the first wife and her son, and the application submitted by the petitioner, the petitioner was appointed on compassionate grounds to the post of Field Surveyor on 03.01.2000.



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5. In the meantime, the Assistant Director, Land Survey and Records Department, by communication dated 05.03.1998, addressed the Tahsildar, Coonoor, requesting issuance of a fresh Legal Heirship Certificate. Pursuant thereto, the Tahsildar issued another certificate dated 05.03.1998 stating that Devaki, the second wife, and her sons Mahesh and Ranjith were the legal heirs of the deceased. Subsequently, the original Legal Heirship Certificate was restored at the instance of the first wife by proceedings dated 12.11.2003.

6. In such circumstances, a charge memo dated 03.04.2009 was issued to the petitioner alleging that he had obtained compassionate appointment by furnishing false information and by suppressing the fact that the deceased had left behind his first wife and her son residing at Palakkad, Kerala. It was further alleged that the petitioner had falsely stated that his mother Devaki and brother Ranjith alone were the legal heirs of the deceased and had produced a false Legal Heirship Certificate to secure employment.

7. The petitioner denied the charges, following which a departmental enquiry was initiated. The Enquiry Officer, after conducting the enquiry,



submitted a report dated 03.05.2010 holding that the charges against the petitioner were not proved. However, the Disciplinary Authority, ignoring the findings of the Enquiry Officer, imposed a punishment of stoppage of increment for three years with cumulative effect, observing that the petitioner had suppressed the fact that the deceased had left behind his first wife and son. Thereafter, the third respondent passed the impugned order dated 19.09.2013 cancelling the petitioner's appointment.

8. The learned counsel for the petitioner submitted that the impugned order passed by the third respondent is not legally sustainable in view of the Government Letter (Ms) No.34, Labour and Employment (Q1) Department, dated 16.04.2002. According to the learned counsel, the said Government Letter cannot be applied retrospectively to the petitioner, who had been appointed on compassionate grounds in the year 2000. It was further submitted that even though the petitioner was born through the second wife, he is deemed to be a legitimate child and therefore cannot be denied appointment on compassionate grounds. In support of the said submission, reliance was placed on the decisions of this Court in K. Velankannan vs. Government of Tamil Nadu in W.P. No.16211 of 2007 dated 30.08.2007 and Geetha Ramani vs. District Educational Officer, Kancheepuram and others in W.P. No.11641 of 2003 dated



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9. Per contra, the learned Additional Advocate General submitted that in view of Government Letter (Ms) No.34 dated 16.04.2002, compassionate appointment cannot be granted to a son born through the second wife. It was further submitted that the petitioner had suppressed the fact that the deceased had left behind his first wife and her son and had obtained appointment fraudulently and therefore the cancellation of appointment was justified.

10. This Court has carefully considered the submissions made by the learned counsel on both sides and perused the materials placed on record.

11. The facts as stated above are not in dispute and therefore are not reiterated to avoid repetition. The petitioner was appointed on compassionate grounds based on the affidavit filed by the first wife and her son and the Legal Heirship Certificate issued by the Tahsildar, Coonoor. Subsequently, a charge memo was issued alleging that the petitioner had obtained the appointment fraudulently by producing a false Legal Heirship Certificate. However, the Enquiry Officer categorically held that the charges were not proved.



12. Notwithstanding the said finding, the Disciplinary Authority imposed a punishment and thereafter the third respondent cancelled the petitioner's appointment on the ground that he was born through the second wife, placing reliance on Government Letter (Ms) No.34, Labour and Employment (Q1) Department, dated 16.04.2002. The said Government Letter states that children born out of a void marriage would be entitled to benefits relating to the property of the deceased Government servant, such as family pension and death-cum-retirement gratuity, but that compassionate appointment cannot be equated with property rights.

13. The very same Government Letter came up for consideration before this Court in K. Velankannan vs. Government of Tamil Nadu (W.P. No.16211 of 2007, dated 30.08.2007), wherein a learned Single Judge of this Court held that the said Government Letter cannot be given retrospective effect. It was further held that when an appointment had been made prior to the issuance of the said letter, the same cannot subsequently be cancelled by placing reliance on the said letter.



14. Similarly, the Division Bench of this Court in Geetha Ramani vs. District Educational Officer, Kancheepuram and others held that a child born through the second wife, even though the marriage may be void, is deemed to be a legitimate child. Therefore, such a child cannot be excluded from the definition of “family” for the purpose of compassionate appointment.

15. In the light of the aforesaid legal principles, this Court is of the considered view that the petitioner, being the son born through the second wife of the deceased employee T.K. Krishnamoorthy, cannot be denied appointment on compassionate grounds. The cancellation of his appointment on the said ground is therefore arbitrary, discriminatory and legally unsustainable.

16. This Court had granted an interim order of stay on 07.10.2013 and the same has been in force till date. However, despite the interim order, the petitioner has not been continued in service.

17. At this juncture, the learned counsel for the petitioner, on instructions, submitted that the petitioner is presently not in service.



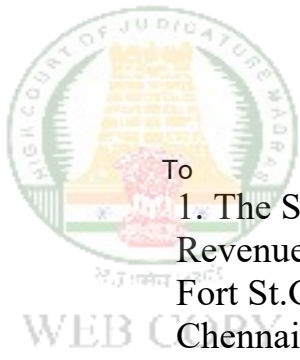
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18. Accordingly, the impugned order dated 19.09.2013 passed by the third respondent is set aside. The respondents are directed to reinstate the petitioner in service with continuity of service and all attendant benefits, including regularisation and other consequential benefits from the date of his original appointment. The petitioner shall also be entitled to 50% of the back wages. The aforesaid exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

19. The Writ Petition is allowed in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

26-02-2026

Jd
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No



To

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Commissioner of Survey and Settlement,
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HEMANT CHANDANGOUDAR J.
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