

(2012) 01 MAD CK 0190

In the Madras High Court

Case No : Writ Petition No. 3556 of 2007

K. Stanley Kamaraj

APPELLANT

Vs

The District Educational Officer Dindivanam, Villupuram
District and The Assistant Elementary Education Officer
Tirukoilur

RESPONDENT

Date of Decision : 06-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 01 MAD CK 0190

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

**Advocate : V. Srimathi, for the Appellant; R. Ravichandran, Addl. Govt.Pleader,
for the Respondent**

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioner has approached this court with a prayer for issuance of writ in the nature of certiorari, to quash the

order passed by 1st respondent declining the request of the petitioner for compassionate appointment.

2. The reasons given for rejection of compassionate appointment by 1st respondent is that the petitioner had a elder brother who was eligible for appointment but has not applied and therefore the request of petitioner cannot be considered.

3. Learned counsel for the petitioner is right in contending, that the reasons given in the impugned order are not sustainable in law, in view of the

affidavit filed by elder brother that he was not interested in job. The case of the petitioner could not be rejected on the ground taken in the

impugned order but at the same time it has to be seen whether the petitioner is

entitled to any relief.

4. The pleaded facts show that the petitioner is not entitled to compassionate appointment. The petitioner is one of the six family members, his

father died while working as Secondary Grade Teacher in the Government School on 01.10.1983.

5. The case of the petitioner is that even before the death of father of the petitioner the elder brother got married and was living separately with his

wife and was not dependent on his father for his livelihood.

6. The petitioner was aged 10 years at the time of death of his father. The case of the petitioner is that the second brother of the petitioner after

being employed got married were not supporting the family.

7. Therefore the petitioner filed application for appointment on compassionate ground in the year 1999 on becoming eligible for the post. Thr

averments made in the petition itself shows that the application for appointment was made 16 years after the death of the father of the petitioner, as

the petitioner was only 10 years at the time of death of his father.

8. It is now well settled law that compassionate appointment is not another source of reservation and is only a mean to tide over difficult situation.

9. The petitioner cannot claim reservation of post in the Government service on ground of compassionate appointment. This kpr view find support

from judgment of Hon"ble Supreme Court in the case of State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir,

10. The petitioner therefore has no right to claim compassionate appointment thus no useful purpose would be served remitting the case back for

the reconsideration for grant of appointment as it is settled law that writ court in exercise of its jurisdiction under Article 226 of the Constitution of

India need not quash an order if it gives rise to another illegal order, 2008 (1) SCT 267 (Shakur Basti Shamshan Bhumi Sudhar Samiti (Regd) vs.

Lt. Governor, National Capital Territory of Delhi and Ors.)

11. No merits. Dismissed. No costs.