

(2012) 03 MAD CK 0098

In the Madras High Court

Case No : Writ Appeal (MD) No. 1367 of 2011 and M.P. (MD) No. 2 of 2011

State of Tamilnadu

APPELLANT

Vs

A. Musthafa Iqbal Basha

RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

Citation : (2012) 03 MAD CK 0098

Hon'ble Judges : R. Karuppiah, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : M. Govindan, Spl. Govt. Pleader, for the Appellant; P. Paranjothi, for the Respondent

Final Decision : Dismissed

Judgement

Chitra Venkataraman, J.—The State has preferred this appeal as against the order of the learned Single Judge, dated 15.03.2011, passed in W.P. (MD) No. 119 of 2010, wherein the respondent herein sought for a writ of certiorified mandamus to quash the proceedings, dated 06.11.2009, of the District Educational Officer, Lalgudi, Trichy District, the 4th appellant herein, rejecting the request of the respondent for appointment on compassionate ground, in any of the Government Schools. A perusal of the order passed by the learned Single Judge shows that the contention of the respondent was accepted on the ground that on the date of death of the respondent's father, i.e. on 15.10.1993, he was working as B.T. Assistant in the Education Department and on the said date, the respondent was just 13 years old, studying in VIII-standard. After attaining majority, the respondent is stated to have submitted an application on 30.12.1999 and sought for appointment on compassionate ground. Prior to that, the respondent's mother also submitted an application on 23.06.1999 to the District Educational Officer, who sought for certain details from the respondent's mother. The Headmaster, Government Higher Secondary School, Sirugambur, by his proceedings, dated 09.03.2000, informed the respondent's mother that only one application could be submitted for compassionate appointment. Accordingly,

as per the proforma, particulars of the respondent were furnished on 14.06.2000. Again, on 21.06.2000, the respondent's mother submitted an application requesting appointment to the respondent on compassionate grounds. The respondent's sister had also given "no objection letter", which was also enclosed. In spite of repeated representations, the respondent was not favoured with any positive answer. However, by the proceedings, dated 06.11.2009 impugned in the writ petition, the respondent's request was rejected by the 4th appellant herein.

2. Learned Single Judge pointed out that Government Letter in No.202, Labour and Employment Department, dated 08.10.2007, prescribes a time limit of three years from the date of death of the Government Servant for filing applications seeking compassionate appointment and that the said order would be applicable to all present, past and future cases. In considering the said claim, learned Single Judge referred to a series of decisions of this Court and pointed out that the respondent's mother applied for legal heirship Certificate and the same was issued by the Tahsildar on 04.11.1993. A certificate was also issued by the Tahsildar on 16.06.1999 certifying that the respondent's mother was receiving Rs.1,250/- per month as family pension and barring that, there is no other source of income. Learned Single Judge further pointed out that the application made by the respondent immediately after attaining majority ought to be given the necessary weightage in the matter of considering the question as to whether there was any delay in submitting an application seeking appointment on compassionate grounds. Learned Single Judge further pointed that the respondent's siblings are living separately and the respondent is living with his mother, who is depending on him.

3. Taking note of all those facts and the hardship experienced by the respondent, learned Single Judge granted the relief to the respondent, thereby directed the appellants herein to pass appropriate orders within a period of two months from the date of receipt of a copy of the order, on the question of granting appointment on compassionate grounds to the respondent. Aggrieved over the same, the present writ appeal has been preferred by the State.

4. It is relevant to point out that on a similar relief sought for in W.A. (MD)No.1362 of 2011, this Court, by judgment dated 23.01.2012, directed the State Government to grant appointment to the appellant therein on compassionate grounds, following the decision of a Division Bench of this court in W.P.Nos.19914 of 2004, 32409 of 2004 and 10577 of 2005, dated 24.07.2006 as well as in W.A.No.1206 of 2006, dated 29.09.2006. On the admitted fact that the respondent was minor at the time of his father's death, we have no hesitation in confirming the order of the learned Single Judge. In the result, the writ appeal stands dismissed. No costs. Connected M.P. (MD) No. 2 of 2011 is also dismissed.