

(2007) 07 MAD CK 0198

In the Madras High Court

Case No : Writ Petition No. 23255 of 2007 and M.P.No. 1 of 2007

T. Mohandoss

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 10-07-2007

Acts Referred:

Citation : (2007) 07 MAD CK 0198

Hon'ble Judges : S. Tamilvanan, J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : M. Gnanasekar, for the Appellant; R. Syed Mustafa, Spl. G.P.(Pondy), for the Respondent

Final Decision : Dismissed

Judgement

F.M. Ibrahim Kalifulla, J.—The petitioner is aggrieved against the orders of the Central Administrative Tribunal dated 30.01.2006 in

O.A.No. 28 of 2006 and 03.01.2007 in R.A.No. 18 of 2006. By the impugned orders, the Tribunal rejected the petitioner's claim for

compassionate appointment as a daily rated/casual employee. (sic) The petitioner's father one Mr. T. Thirumal was employed as NMR for nearly

twelve years in the Public Works Department. He died on 19.10.2004 due to ill health. After the death of his father, the petitioner is stated to have

made an application dated 17.11.2004 claiming employment on compassionate ground. There was also a rival claim by one Tmt. Saroja, who

claimed herself to be the second wife of late T. Thirumal.

2. Be that as it may, since the petitioner's, claim for compassionate appointment was not considered by the first respondent, the petitioner

approached the Tribunal by filing O.A.No. 28 of 2006 seeking a direction to

consider his application dated 17.11.2004 for compassionate appointment in any suitable post in Public, Works Department. The Tribunal by its order dated 30.01.2006, dismissed the petitioner's Original Application on the ground that his father was not in regular Government service. The petitioner preferred a Review Application in R.A.No. 18 of 2006. In the Review Application, the petitioner relied upon a memorandum of the first respondent dated 26.03.1993. However, the Tribunal by referring to the scheme for compassionate appointment as per O.M.No.14014/6/94 Estt dated 09.10.1998, held that the scheme for compassionate appointment is not applicable to daily rated employees. We fully concur with the said conclusion of the Tribunal.

3. The Tribunal has referred to the object of the Scheme which specifically mentions that appointment on compassionate grounds is available only to a family member of a Government servant who died in harness or who was retired on medical grounds. The Scheme again specifically states that it is applicable to a dependent family member of a Government servant. The expression "Government servant" has been defined to mean a Government servant appointed on regular basis and not one working on daily wage or as a casual or as an apprentice or on ad hoc basis or on contract or re-employment basis. Thus, when under the Scheme there is a specific exclusion of all other persons such as daily wage employee, casual "employee etc. other than regular Government servant, merely based on a clarificatory letter dated 26.03.1993, the petitioner cannot try to expand the scope of compassionate appointment, which is exclusively available only to a Government servant. That apart, the Tribunal relied upon the decisions of the Hon"ble Supreme Court reported in Umesh Kumar Nagpal Vs. State of Haryana and Others, and JT 1996 (6) SC 646 [State of Haryana v. Rani devi and Ors.] where, again, the Hon"ble Supreme Court has held (sic) terms that a Scheme of appointment on compassionate grounds if extended to casuals and ad hoc employees, then the Scheme itself would be constitutionally invalid.

4. Thus, looked at from any angle, the claim of the petitioner was not maintainable and therefore, the Tribunal was perfectly justified in passing the orders impugned in this writ petition. The writ petition therefore fails and the same is dismissed. No costs. Consequently, connected miscellaneous

petition is closed.