

G.Pushparaj. Vs. the Chief Engineer, Highways and Rural Works Department, and anr.

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Court : Chennai

Decided On : Sep-28-2010

Judge : D.Hariparanthaman, J.

Acts : Constitution Of Indian - Article 226

Appeal No. : W.P.No.39018 of 2005

Appellant : G.Pushparaj

Respondent : The Chief Engineer, Highways and Rural Works Department, and anr.

Advocate for Def. : Mr.K.Balakrishnan, Adv.

Advocate for Pet/Ap. : Mr.P.S.Amalraj, Adv.

Judgement :

1. The petitioner's father was employed as Gang Mazdoor in the respondent Department. He died on 05.02.1981, while he was in service, leaving behind him, his wife, viz., the mother of the petitioner, and two sons as his legal heirs. The petitioner is one of the sons. The mother of the petitioner is getting family pension. At the time of the death of the petitioner's father, the petitioner was aged about 12 years. The petitioner made an application on 25.11.1987 to the Assistant Divisional Engineer, Highways and Rural Works Department, Thiruvallur, seeking

compassionate appointment. The Superintending Engineer, Chennai Circle wrote a letter dated 21.11.1990 to the District Collector, Chengai Anna District, Kancheepuram recommending the application made by the petitioner for compassionate appointment. The petitioner produced all the required certificates for compassionate appointment.

2. While so, the second respondent passed the impugned order dated 15.06.1999, rejecting the petitioner's claim for compassionate appointment.

3. The petitioner has filed the Original Application in O.A.No.4685 of 2000 (W.P.No.39018 of 2005) to quash the aforesaid order dated 15.06.1999 of the second respondent and for a direction to the respondents to forthwith appoint him in any suitable post on compassionate grounds.

4. Heard Mr.P.S.Amalraj, learned counsel for the petitioner and Mr.K.Balakrishnan, learned Additional Government Pleader for the respondents.

5. The second respondent passed the impugned order on 15.06.1999 rejecting the claim of the petitioner for compassionate appointment on the following grounds:-
(i) While the petitioner's father died on 05.02.1981 and the petitioner acquired educational qualification in the year 1987, he made application for claiming compassionate appointment only on 21.04.1997. (ii) The certificate relating to indigent circumstances and income certificate stand in the name of the petitioner. (iii) The Service Register of the petitioner's father was misplaced and no sufficient particulars of the deceased employee are available in the newly constructed Register.

6. The learned counsel for the petitioner submits that the second respondent erroneously proceeded, as if the petitioner made the application only in the year 1997, while he acquired qualification in the year 1987 and his father died in 05.02.1981. The Superintending Engineer, Chennai Circle, wrote a letter in Na.Ka.No.3282/89/P4 dated 21.11.1990 to the District Collector, Chengai Anna District, Kancheepuram stating that the petitioner has made an application for compassionate appointment on 19.11.1987 and that there was no possibility of granting employment in his Department and that therefore he recommended for

compassionate appointment by including in the list maintained by the Collectorate, Kancheepuram. The said letter is extracted here-under:- "f/vz;/3282/89/gp4 . ehs; 21/11/1990

bghUs;:-fUiz mog;gilapy; gzp epakdk; kiwe;j

rhiyg; gzpahsh; jpU/tp/fnzrd; kfd;

jpU/\$p/g[c&;guh\$; vd;gth; fUizapd; mog;gilapy;

gzp epakdk; nfhUjy; rk;ge;jkhf/

ghh;it:-murhiz vz;/1179. eph;thf rPh;jpUj;jk; Jiw

ehs; 17/10/1979/ ghh;itapy; fz;l murhizapd;go j';fsJ khtl;l;ijr; rhhe;j kiwe;j jpU/tp/fnzrd; rhiy gzpahshpd; kfd; jpU/\$p/g[c;&guh;\$; vd;gth; fUizapd; mog;gilapy; gzp cHptiu gjpt[U vGj;jh; gzp epakdk; nfhhpa[s;shh;/ ,tUf;F nghjpa fy;tpj; jFjpapUe;Jk; ,j;Jiwapy; gzp epakd tha;g;g[,y;yhjppdhy; gjpt[U vGj;jh; Mfg; gzpepakdk; tH';f ,aytpy;iy/ ghh;itapy; fz;l murhizapy; gj;jp (4) gphpt[(3)y; Twpa[s;sgo j';fsJ khtl;l;jpy; guhkhpf;fg;gLk;. gl;oaypy; ,tuJ bgahpidr; nrh;j;J gzp epakdtha;g;g[fs; Vw;gLk;ngHJ gzp epakdk; bra;af; nfl;Lf; bfhs;fpnwd;/ ,jDld; ,ize;Js;s gotj;jpy; ,tiug; gw;wpa tptu';fisj; bjhptpf;fpnwd;/ ,g;bghUs; Fwpj;Jg; ghprPypf;f K:yr; rhd;Wfs; njitbadj; bjhptpj;jhy; mjid mDg;gpitf;fpnwd;/" Along with the abovesaid letter, dated 21.11.1990, a pro-forma was enclosed by the Superintending Engineer, Chennai, giving various details relating to the petitioner and his family.

7. But, the second respondent passed the impugned order without applying his mind that the petitioner made an application for compassionate appointment in April 1997. The aforesaid letter dated 21.11.1990 of the Superintending Engineer, Chennai, who is higher authority than the second respondent, makes it very clear that the petitioner made request even in the year 1987. As stated above, the very first reason of the second respondent for rejecting the claim for compassionate appointment was that the petitioner should have made request in the year 1987. Since as per the letter dated 21.11.1990 of the Superintending Engineer, Chennai, the petitioner made request for compassionate appointment in 1987 itself, the first

reason in the impugned order has no basis.

8. Regarding the other ground, in my view, the certificate relating to indigent circumstances and income certificate stand in the name of the petitioner would not be cited as a ground to deny the compassionate appointment. It is not the case of the second respondent that the petitioner did not produce certificate relating to the indigent circumstances of the family and income certificate. While the authority who issued the certificate granted the same in the name of the petitioner, that could not be cited as a reason to deny the compassionate appointment.

9. The other reason given by the second respondent for denying compassionate appointment is surprising and also shocking. The second respondent should blame his office for having lost the Service Register of the deceased employee. It is not disputed that the widow of the employee i.e., the mother of the petitioner has been given family pension. Hence, this ground has no substance.

10. In the result, the impugned order is quashed. In normal course, I could have directed the respondents to consider the case of the petitioner for compassionate appointment. Here is a case, wherein, as early as on 21.11.1990, the Superintending Engineer, Chennai, recommended for compassionate appointment to the petitioner. Taking into account, the said fact, while quashing the impugned order, I hereby direct the respondents to pass suitable orders granting compassionate appointment to the petitioner within a period of 12 weeks from today.

11. Accordingly, the writ petition is allowed. No costs.

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