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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-08-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

WA No. 2778 of 2023

and

C.M.P.No.23311 of 2023

1. The Secretary To Government
School Education Department, Secretariat,
Chennai-600 009.
2. The Secretary to Government
Labour and Employment Department,
Secretariat, Chennai-600 009.
3. The Chief Educational Officer
Ariyalur District, Ariyalur.
4. The Joint Director of School Education
(Establishment)
O/o. The Director of School Education, College
Road, Chennai-600 006.

..Appellant(s)

Vs

B Arunpragadheesh
S/o. D. Balasubramanian,
No.1721-D, Pudupillaiyarkovil Street, Vilandai,
Andimadam (Post), Ariyalur-621 801

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent, praying to
set aside the order dated 01.08.2022 made in W.P.No.26139/2021.

For Appellant(s):

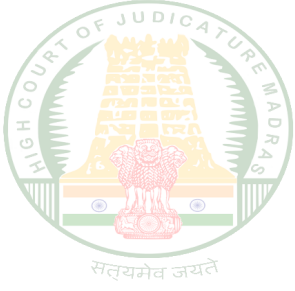
Mrs.Y.Kavitha

Additional Government Pleader

For Respondent(s):

Mr.P.Ganesh

for Mr.M.Praveen Kumar

**JUDGEMENT****(Order of the Court was made by S.M.Subramaniam J.)**

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Under assail is the writ order dated 01.08.2022 passed in W.P.No.26139 of 2022.

2. The Sate preferred the present writ appeal mainly on the ground that the respondent is ineligible for the compassionate appointment since his elder brother is working in the Indian Bank, Royapettah Branch, Chennai and the family is not in indigent circumstances.

3. The facts, in brief, are that the father of the writ petitioner was Late Balasubramanian, who was employed as B.T. Assistant in the Government Higher Secondary School, Vilandai, Ariyalur District and died on 16.10.2011, while he was in service. The respondent is the third legal heir of the deceased employee and submitted his application seeking compassionate appointment in January 2012. The said application was rejected mainly on the ground that the second legal heir of the deceased employee and the elder brother of the respondent herein was employed in the Indian Bank, Royapettah Branch, Chennai and further, the family was not in indigent circumstances. Consequently, the application was rejected. The appeal preferred before the Appellate Authority was also rejected. Thus, the writ petition came to be instituted.

4. The learned Additional Government Pleader for the appellants would contend that the situation of the family was assessed by the competent authority and that they found that the elder brother of the appellant is



employed in the Indian Bank, Royapettah Branch, Chennai and the family is not in indigent circumstances. Thus, the claim of the respondent was rejected.

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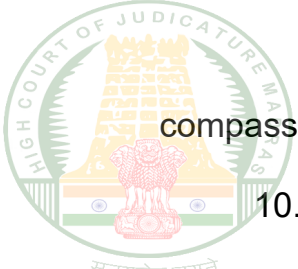
5. The learned counsel for the respondent would oppose by stating that the elder brother of the respondent has been residing separately and has not been maintaining the family since 2015. That apart, there is no prohibition under the scheme of compassionate appointment to provide appointment to the third legal heir of the deceased employee. Thus, the reasons stated by the competent authorities are untenable.

6. The writ Court considered these aspects and granted the relief. The delay cannot be held against the respondent since the application was filed within a period of three years and the respondent was pursuing the application, but the order of rejection was passed in the year 2020. Thus, the delay cannot be attributed against the respondent.

7. This Court has considered the rival submissions made between the parties to the *lis* on hand.

8. The wider constitutional ramifications and implications of the special scheme of compassionate appointment require consideration by this Court.

9. The scheme of compassionate appointment is a concession and not a constitutional scheme of appointment. Compassion can never be claimed as an absolute right. Thus, the scheme is to be implemented scrupulously in terms and conditions stipulated. Let us examine the effects and ill-effects of the non-constitutional, concessional scheme of appointments like



compassionate appointments.

10. The effect of compassionate appointment in one angle, is that the family, who lost the breadwinner is able to secure a job under the compassionate appointment and lead their livelihood peacefully. The very object of the scheme is to mitigate the circumstances arising out of sudden death of an employee. Therefore, the relevant consideration would be that the family should not be in a position to maintain themselves and the income of the breadwinner alone was the protector of the family.

11. If the family is able to lead their livelihood in the absence of the income earned by the breadwinner, then such family may not be eligible to secure employment on compassionate grounds. If this criteria is diluted, then the very scheme of compassionate appointment and its objectives are defeated. This is exactly the reason why extra-constitutional schemes of special appointments are given in a restricted manner so as to ensure only deserving families get the benefits and the scheme is not misused or abused so as to deprive the meritorious candidates of securing employment.

12. The ill-effects of this scheme are to be considered in a constitutional perspective. Equal employment in public employment is a constitutional mandate. Social justice is the philosophy enunciated under the constitution and is to be achieved by the State to ensure that every citizen gets equal opportunity in public employment. All public appointments are to be made under the constitutional scheme of appointments. Lakhs and lakhs of youth of our great nation are longing to secure public employment through an open



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competitive process. They are working hard and awaiting recruitment notification from the Public Service Commissions and the Government. Many citizens in remote areas of our Country are first time graduates and are waiting for such employment notification to secure public employment, which they consider as a status in the society. Depriving those meritorious candidates of securing employment on merits and through reservation is unconstitutional. Therefore, the scheme of compassionate appointment itself is violative of Articles 14 and 16 of the Constitution of India. Under the scheme, no merit assessment has been made, no reservation is followed, eligibility criteria is not followed and death alone is the criteria to provide public employment. Therefore, the scheme is to be implemented in a restricted manner.

13. Article 335 of the Constitution of India denotes claims of Scheduled Castes / Scheduled Tribes to service and posts. The said Article enumerates that “the claims of the members of the Scheduled Tribes / Scheduled Castes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State”.

14. The constitution mandates even while providing public appointments to the Scheduled Caste / Scheduled Tribe candidates, maintenance of efficiency of administration in making of such appointments is of paramount importance. That being the spirit of constitution, the scheme of compassionate appointment, if leading to an inefficiency in public



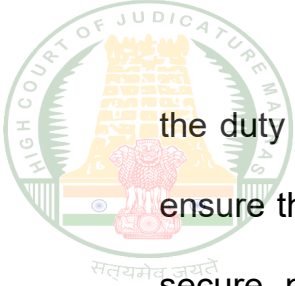
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administration, the scheme is to be revisited by the States and the Union so as to ensure the most deserving family alone has been provided with compassionate appointment in a restricted manner to protect the basic rights of the meritorious candidates, including the Scheduled Castes / Scheduled Tribes candidates, who are all aspiring to secure public employment through the constitutional scheme of appointments.

15. The scheme of compassionate appointment is a special consideration extended to the families of the deceased employee mostly on sympathy grounds and also to protect their livelihood. Therefore, the scheme must act in its real objective and not to provide one appointment to the legal heirs of the deceased employee. However, in recent times, the scheme has been misconstrued or misinterpreted so as to secure public employment through this concessional scheme of appointments. Unless such attempts are thwarted, the very spirit of constitutional scheme of appointments are under threat.

16. The State has to ensure equal opportunity in public employment and social justice as mandated to protect the rule of reservation for the socially backward and downtrodden communities. Any extended scheme of concessional appointments, undoubtedly would deprive the opportunities of weaker section in the society and thereby offending the principles of social justice as mandated under the constitution.

17. The Courts are not expected to approach such issues on misplaced sympathy. The Court though considered such cases on individual facts, it is



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the duty bound to assess the mitigating factors so as to strike a balance and ensure that the constitutional mandates and rights of citizens in the society to secure public employment are protected and preserved. Therefore, the Courts are not expected to be carried away by misplaced sympathy on the ground that an employee died and therefore, give appointment to the legal heirs. The penurious circumstances prevailing in the family are of paramount importance for extending the scheme of compassionate appointment. Any routine orders passed by the Courts would not only offend the constitution but deny employment opportunity to meritorious candidates, who are all waiting for public employment.

18. The Courts, while considering the effects of compassionate appointment, are expected to equally consider the ill-effects and strike a balance and adopt a pragmatic approach to ensure that the scheme is employed properly. In the event of the scheme causing infringement of the rights of the citizen, then the State is expected to revisit the scheme to bring appropriate conditions so as to ensure that the constitutional protection given to the citizens are preserved.

19. Coming to the facts of the present case, the father of the respondent died on 16.10.2011. First application seeking appointment on compassionate ground was filed in January 2012. The second application was filed in the year 2014. There was a delay in rejecting the application, which was done in the year 2020. The writ petition came to be filed in the year 2021. Though there was no delay on the part of the respondent in submitting the application,



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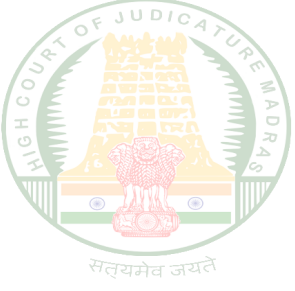
the authorities, during evaluation, found that the family was not in indigent circumstances, more so the elder brother of the respondent was employed in the Indian Bank, Royapettah Branch, Chennai. For all these reasons, the claim of the respondent was rejected. That apart, the delay in providing the appointment is also a ground whereby the factual inference can be drawn that the penurious circumstances, if at all arose, became vanished on account of the efflux of time.

20. However, all these factors were assessed by the competent authority in the present case, and it formed an opinion that the family is not in indigent circumstances. Thus, the writ order dated 01.08.2022 passed in W.P.No.26139 of 2021 is set aside. The Writ Appeal stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

(S.M.S.,J.) (K.G.R.,J.)
25-08-2026

Index : Yes
Neutral Citation : Yes
Speaking order

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**S.M.SUBRAMANIAM, J.
AND
KRISHNASWAMY GOVINDARAJAN, J.**

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