



W.A.No. 2687 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON: 20.06.2024

DELIVERED ON: 08.08.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE KUMARESH BABU

W.A.No. 2687 of 2022

and CMP.No.21785 of 2022

M. Balasubramanian

.. Appellant

Vs

1. The Government of Tamil Nadu
Rep. By its Secretary,
Education Department, Secretariat,
Chennai-600009.

2.The Director of School Education,
College Road,
Chennai-600006.

3.The District Educational Officer,
Chengalpattu – 603001

..Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.08.2022 in W.P.No.26951 of 2015.

For Appellant : Mr. A.V.Arun

For Respondents : M.J.C.Durairaj, AGP

J U D G M E N T

(Order of this Court was made by D.Krishnakumar, Acting Chief Justice)

Aggrieved by the order passed by the writ court in W.P.No.26951 of 2015, dated 17.08.2022, the present writ appeal has been filed by the appellant.

Brief Facts:

2. The appellants father M.Murugan was working as Tamil Teacher in Government Higher Secondary School and died on 22.09.1997 while he was in service. The appellant made an application to the 3rd respondent seeking appointment on compassionate grounds on 30.03.1999 with all relevant documents. The said application was not considered by the authorities and the same was rejected after 14 years by proceedings dated 07.05.2013.



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Challenging the said proceedings, the appellant had filed a writ petition in W.P.No. 20430 of 2013 before this Court and by order dated 08.09.2014, the said writ petition was disposed of directing the respondent-authorities to reconsider the case of the appellant and pass suitable orders. Pursuant to the said orders of this Court, the respondent had passed orders dated 12.01.2015 and again rejected the claim of the petitioner. Challenging the said rejection order, the appellant has again filed a writ petition in W.P.No. 26951 of 2015, the said writ petition was also dismissed by this Court, by order dated 17.08.2022. Challenging the same, the present writ appeal has been filed.

3. The learned counsel for the appellant has submitted that the 3rd respondent has passed the rejection orders after 14 years on the ground that the appellant's brother supports the appellant's family. Hence, the writ court has set aside the rejection order and directed the respondent-authorities to consider the appellant's case on merits and pass orders in the writ petition filed by the appellant in W.P.No.20430/2013, dated 08.09.2014. Even after the said directions, the 2nd respondent again rejected the claim of the petitioner by order dated 12.01.2015.



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4. The learned counsel for the appellant has further submitted that the learned Single Judge in the impuged order dated 17.08.2022 without considering the fact that there was no delay at any point on the part of the appellant, had dismissed the writ petition in W.P.No. 26951 of 2015 on the ground that the appellant is overaged. Hence the impugned order passed by the learned Single Judge is liable to be set aside.

5. On the other hand, the learned Government Pleader appearing for the respondents has submitted that the appellant had submitted application for the compassionate appointment in the year 1999 and slept over his right for about 14 years till the rejection order passed by the respondent-authorities in the year 2013, thereafter, the appellant approached the writ Court. The writ Court after taking into consideration of the Government Order in G.O.Ms.No. 18 Labour and Employment (Q1) Department, dated 23.01.2020, in which it has been clearly mentioned that the eligibility age criteria is 40 years as upper age limit, had dismissed the writ petition on the ground that the appellant is over aged and not entitled for appointment on



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compassionate grounds.

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6. The learned Government Pleader has further submitted that the respondent-authority while calculating the indigent circumstances of the appellant's family, came to know that the deceased Government employees family is not in poverty since two of the heirs in his family are working in the Government and Private Sectors and are financially dependent. Therefore, it is clear that since all the heirs in the deceased family members are married and living as a separate family, there are no heirs in the family in a destitute condition to be maintained by the appellant herein and thus the deceased government employee's family is not in indigent circumstances. Hence the impugned order of the writ court is perfectly valid and based on the guidelines framed by the Government, and does not require any interference by this Court.

7. Heard the learned counsel appearing for the appellant and the learned Government Pleader appearing for the respondents and perused the materials available on record.



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WEB COPY 8. The following are undisputed facts in the appeal;

- i. The appellant's father namely M.Murugan died on 22.09.1997 while in service. The appellant made an application on 30.03.1999 to the respondent-authorities for appointment on compassionate grounds, which is within the limitation period as prescribed in G.O. Ms. No. 18, dated 23.01.2020.
- ii. The 3rd respondent had rejected the said application by order dated 07.05.2013 i.e after 14 years of the application made by the appellant on the ground that the appellant's family is not in poverty and his brother is working.
- iii. The first writ petition was filed by the appellant in W.P.No. 20430 of 2013. Though the writ court issued directions to consider the case of the appellant, the 2nd respondent by order dated 12.01.2015 rejected the claim of the appellant.
- iv. The second writ petition was filed by the appellant in W.P.No. 26951 of 2015 and the same also ended against the appellant, which is impugned in the present writ appeal.



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9. After elaborately considering the above points based on the materials and considering the rival submissions made by both the learned counsels for the parties, the following points needs to be answered by us;

- i. Whether the application made by the appellant and the rejection order passed by the respondents-authorities are in consonance with the guidelines issued in G.O.Ms.No. 18, dated 23.01.2020.
- ii. Whether the impugned order of the writ court, confirming the rejection order passed by the respondents-authorities is sustainable in law or not?

10. We have perused the entire records. The documents filed by the appellant from page nos. 32 to 70 in the typed set of papers shows that the appellant had submitted his application and supporting documents to the respondents-authorities within the period as stipulated in G.O.Ms.No. 18, dated.23.01.2020. The respondent-authorities have not disputed the date of application and the above documents filed by the appellant. It is also seen from the records that between the year 1999 and 2013 i.e for 14 years, the



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respondent- authorities have not raised any queries or called for any additional documents from the appellant to consider/process his application for compassionate appointment and there are no valid reasons in the counter affidavit with regard to the delay in passing orders on the appellant's application.

11. Since it is contended by the respondents that the rejection order was passed on the appellant's application on the ground of indigent circumstances as per the guidelines framed in G.O. Ms. No. 18, Labour and Employment Department, dated 21-01-2020, it is necessary to extract the relevant clauses of the said G.O.

FAMILY TO BE IN INDIGENT CIRCUMSTANCES TO BE ELIGIBLE UNDER COMPASSIONATE GROUND APPOINTMENT:

- (i) The appointing authorities shall examine the financial condition of the family of the deceased Government servant and offer job to an eligible member of the family only after satisfying themselves that, but for the provision of employment, the family will not be able to meet the crisis.



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(ii) A family having annual income of less than Rupees 2 lakhs only will be treated to be in indigent circumstances.

(iii).The family pension of the deceased employee and the immovable property like living house of the employee need not be taken into account while assessing the income of the family. However income received from the movable/immovable properties in the name of the Government Servant's family members should be taken into account. Certificate is to be issued by the jurisdiction Tahsildar.

12. As seen from the records, after a period of 14 years, the 3rd respondent had passed the rejection order on 07.05.2013 on the ground that the appellant's family is not in indigent circumstances , since two of the heirs in his family are working in the Government and Private Sector. The appellant has filed a copy of the appointment order of his younger brother namely Komateswaran was working as Junior Secondary Grade Teacher in the typed set of papers at page no.83, which is dated 14.12.2005. Eventhough the respondent-authority has taken ground of indigent circumstances of the appellant's family for rejecting his application, the same should not be taken after six years from the date of application. Moreover, the respondent has passed the rejection order after a period of 8



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years from the date of appointment of appellant's brother and after 14 years from the date of application of the appellant. There is no explanation on the side of the respondents for this inordinate delay of 14 years in taking decision on the application.

13. It is also useful to extract the guidelines framed in the said G.O. With respect to the time limit and age limit for granting compassionate appointment.

TIME LIMIT TO PREFER THE APPLICATION:

The application for the compassionate ground appointment may be submitted within 3 years from the date of death of the Government Servants.

AGE LIMIT FOR THOSE ELIGIBLE UNDER COMPASSIONATE GROUND APPOINTMENT

- (i) The minimum age is 18 years at the time of submitting application for compassionate ground appointment.**
- (ii) The maximum age limit for the spouse/father/mother is 50 years on the date of death of the Government servant.



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(iii)The maximum age limit for the son or daughter of the deceased Government Servant and unmarried brother/unmarried sister of the unmarried deceased Government Servant is 40 years at the time of applying.

14. With regard to the time limit, the appellant's father namely M.Murugan died on 22.09.1997 while in service. After death of his father, the appellant submitted application on 30.03.1999 to the respondents seeking appointment on compassionate grounds. The appellant has submitted application within a period of three years as per the guidelines (extracted above) in the said G.O and there was no delay on the part of the appellant. With regard to the age of appellant, at the time of application, as per the identity card issued by the Employment Exchange (filed at page no.34 of the typed set of papers), the appellant's date of birth is 27.07.1971. Therefore, at the time of submitting application, the appellant was 28 years old. As per the guidelines extracted above, the minimum age is 18 years and maximum is 40 years. Therefore, there could not be any rejection of the application on this ground.



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15. Admittedly, the appellant is now aged about 53 years and he cannot be granted appointment on compassionate grounds as per the guidelines in the above G.O.Ms.No. 18, which stipulates the maximum age for consideration for appointment as 40 years. In view of the above discussion, it is clear that the delay in processing his application was solely on the part of the respondent authorities.

16. The Hon'ble Supreme Court and this Court repeatedly observed that the Compassionate appointments serve a crucial role in providing immediate financial relief and support to the bereaved families of deceased government employees. The intent behind such appointments is to ensure that the family does not fall into destitution following the sudden demise of the primary breadwinner. It is imperative that such applications are to be handled with utmost promptness and fairness to uphold the spirit of compassion and justice embedded in these provisions.

17. In the present case, as discussed above, the appellant complied with all the guidelines at the time of submitting his application. The



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respondents-authorities had rejected the appellant's application after 14 years, which is highly unreasonable and unjustifiable. There is no dispute that this undue delay on the part of the respondents has deprived the appellant's rightful claim and subjected him to unnecessary hardship for 14 years. However, considering the fact that the appellant is now 53 years old, compassionate appointment cannot be granted to him, which admittedly violates the rules in force. As far as delay in consideration of the application, as discussed above in detail, it is solely on the part of the respondents, who kept the appellant's application idle for 14 years. Due to the delay by the respondent, the appellant has become over aged and came out from the zone of consideration. On these grounds alone, the impugned order passed by the writ court requires interference.

18. Considering the facts and circumstances of the case, We are of the view that the appellant cannot be granted appointment due to his current age, however, considering the delay on the part of the respondent-authorities, it would be appropriate to direct the respondent-authorities concerned to pay a sum of Rs.25,000/ (Rupees Twenty Five Thousand Only) towards costs to



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the appellant as compensation for the administrative delay and negligence in processing his application. The costs are to be paid within a period of eight weeks from the date of this order.

19. The decision to impose costs underscores the importance of timely and fair administrative actions, ensuring that applicants/legal heirs of the deceased Government employee are not unjustly penalized due to delays beyond their control. This measure aims to uphold the principles of justice and accountability in the administrative process and reinforces the significance of compassionate appointments as a means to provide immediate support to families in distress.

20. In fine, the writ appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petitions is closed.

[D.K.K, A.CJ.,] [K.B., J.]

.08.2024

Index: yes/no

Internet:yes

Speaking Order/Non speaking order

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To

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1. The Secretary,
Education Department, Secretariat,
Chennai-600009.
2. The Director of School Education,
College Road,
Chennai-600006.
3. The District Educational Officer,
Chengalpattu – 603001



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**D.KRISHNAKUMAR, ACJ.,
&
K. KUMARESH BABU, J.**

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**Pre-Delivery Judgment in
W.A.No. 2687 of 2022
and
CMP.No. 21785 of 2022**

.08.2024