

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2015

CORAM

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.17828 of 2014

P.Arunkumar

... Petitioner

vs.

1. The Joint Director,
Agricultural Department,
Tiruvallur.

2. The Assistant Director,
Agricultural Department,
Tiruttani

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the first respondent in his proceedings No.AA3/1035/2007 dated 14.11.2013 and quash the same as illegal and further direct the respondent to give suitable appointment to the petitioner with reference to his educational qualifications, on compassionate ground.

For Petitioner : Mr.B.Jawahar

For respondents : Mr.M.S.Ramesh,A.G.P.

ORDER

This writ petition is directed against the order, dated 14.11.2013, whereby and where under the first respondent rejected the application submitted by the petitioner for compassionate appointment on the ground that within a period of three years from the date of death of the Government employee, application was not given for compassionate appointment.

2. The father of the petitioner, by name, Thiru Palanivel worked as Night Watchman, in the Department of Agriculture. While in

service, he died on 28.12.1996. The deceased employee is survived by his widow and two children. The mother of the petitioner submitted an application for compassionate appointment, on 11.08.1997. The said application was kept pending by the respondents. The petitioner, after attaining majority, submitted an application on 26.06.2007. The application was processed by the respondents and ultimately, it was rejected on the ground that as per Government Order in G.O.Ms.No.120, Labour Welfare, dated 26.5.1995, application has to be given within a period of three years. Being aggrieved by the said order, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

4. The proceedings, dated 25.2.2014, on the file of the first respondent clearly shows that the mother of the petitioner has given an application for compassionate appointment on 11.08.1997 and the said application is still pending. Therefore, it is very clear that it was only during the currency of the application submitted by the mother of the petitioner, that a second application was submitted by the petitioner, which was rejected by the first respondent.

5. The application was rejected solely on the ground that it was not made within a period of three years. However, while rejecting the application, the first respondent conveniently omitted to note the fact that the mother of the petitioner has already given an application on 11.08.1997 and the same is still pending before the said authority. When an application is given at a subsequent point of time on the ground that earlier application was not considered, necessarily the said application should be considered in the light of the earlier application. The only course open to the first respondent is to obtain no objection from the mother of the petitioner, who made an application on 11.08.1997, to the effect that she has no objection in giving employment to the petitioner, who is none other than her son.

6. The learned counsel for the petitioner submitted that the other son of the deceased is a mentally retarded person and as such, there is no question of offering employment to him. In such view of the matter necessarily, the application submitted by the petitioner should be considered, in the light of the earlier application submitted by his mother dated 11.08.1997, which was made within a period of three years from the date of death of the blood winner of the family. I am therefore of the view that the first respondent has erred in rejecting the application submitted by the petitioner for compassionate appointment.

7. In the result, the impugned order dated 14.11.2013 is set aside and the matter is remitted to the first respondent for fresh consideration. The first respondent is directed to consider the application, dated 26.6.2007, submitted by the petitioner, in the light of the earlier application submitted by his mother on 11.08.1997. It is open to the first respondent to call upon the petitioner to submit no objection from his mother, so as to enable the authority to consider the application submitted by him for compassionate appointment. In any case, the application should be considered as expeditiously as possible. Final order should be passed by the first respondent within a period of three months from the date of receipt of a copy of this order.

8. The writ petition is allowed as indicated above. No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

msk

To

1. The Joint Director,
Agricultural Department,
Tiruvallur.
2. The Assistant Director,
Agricultural Department,
Tiruttani

+1cc to Mr.B.Jawahar, Advocate, S.R.No.9312
+1cc to the Government Pleader, S.R.No.9427

SCD(CO)
CA(05/03/2015)

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