

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33252 of 2015

And

M.P.Nos.1 and 2 of 2015

P.Karthik

... Petitioner

Vs.

- 1 Govt. of Tamil Nadu
Rep. by the Secretary to Government,
Municipal Administration & Water Supply
Department, Secretariat, Chennai-9
- 2 The Commissioner of Municipal
Administration, Chepauk, Chennai-15.
- 3 The Commissioner,
Erode City Municipality Corporation, Erode.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third Respondent relating to Na.Ka.No.702/2015/C1 dated 18.05.2015 to quash the same and to issue consequential directions to the Respondents to provide appointment to the petitioner in Erode corporation on Compassionate grounds consequent on the death of his father Thiru.S.Palanisamy on 19.06.2003 while in service in the erstwhile Erode Municipality as Tap Operator.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.S.Gunasekaran for R1 and R2
Government Advocate
Mr.M.Rajamathivanan for R3

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that his father namely Palanisamy was working as Tap Operator in the erstwhile Erode Municipality (now upgraded as City Municipal Corporation) in its Engineering Wing and he died in harness on 19.06.2003 leaving behind the petitioner, his mother as well as his sister and his grand mother. Since the father of the petitioner died in harness, the family of the petitioner has been left in lurch and the petitioner was also minor at the relevant point of time and the mother of the petitioner also submitted a representation on 13.02.2004 to the Commissioner of Erode Municipality to provide her employment on compassionate grounds and on account of the ban order of the Government, the request was not considered and upon lifting of the ban order, the mother of the petitioner once again submitted representation as a reminder to the earlier representation seeking for appointment on compassionate ground and the petitioner by that time attained majority and the petitioner has also submitted a representation dated 07.05.2015 to consider his claim for appointment on compassionate ground and it was rejected on the ground thea the application has not been submitted on time and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3.The learned counsel appearing for the petitioner would submit that as against the order of rejection, the petitioner has submitted an appeal memorandum/ petition to the first respondent and it would be suffice to direct the first respondent to dispose of the same in the light of the judgment of the Hon'ble Supreme Court reported in (2006) 9 SCC 195 (Syed Khadim Hussain Vs. State of Bihar) and prays for appropriate orders.

4.This Court also heard the submissions S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondents 1 and 2 and Mr.M.Rajamathivanan, learned counsel who accepts notice on behalf of the third respondent.

5.It is relevant to extract paragraph nos.5 and 6 of the judgment of the Hon'ble Supreme Court reported in (2006) 9 SCC 195 (Syed Khadim Hussain Vs. State of Bihar) which reads as under:

"5.We are unable to accept the contention of the counsel for the State. In the instant case, the widow had applied for

appointment within the prescribed period and without assigning any reasons the same was rejected. When the appellant submitted the application he was 13 years' old and the application was rejected after a period of six years and that too without giving any reason and the reason given by the authorities was incorrect as at the time of rejection of the application he must have crossed 18 years and he could have been very well considered for appointment. Of course, in the rules framed by the State there is no specific provision as to what should be done in case the dependants are minors and there would be any relaxation of age in case they did not attain majority within the prescribed period for submitting application.

6.As the widow had submitted the application in time the authorities should have considered her application. As eleven years have passed she would not be in a position to join the government service. In our opinion, this is a fit case where the appellant should have been considered in her place for appointment. Counsel for the State could not point out any other circumstance for which the appellant would be disentitled to be considered for appointment. In the peculiar facts and circumstances of this case, we direct the respondent authorities to consider the application of the appellant and give him appropriate appointment within a reasonable time at least within a period of three months. The appeal is disposed of in the above terms. No costs."

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6.In the light of the submission made by the learned counsel appearing for the petitioner, this Court directs the first respondent to consider and dispose of the petitioner's appeal memorandum/ petition dated 01.06.2015 on merits and in accordance with law after taking note of the above stated judgment rendered by the Hon'ble Supreme Court of India and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

sd/-
ASSISTANT REGISTRAR (CS-IV)

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SUB-ASSISTANT REGISTRAR

Pri

To

- 1 Govt. of Tamil Nadu
Rep. by the Secretary to Government,
Municipal Administration & Water Supply
Department, Secretariat, Chennai-9
 - 2 The Commissioner of Municipal
Administration, Chepauk, Chennai-15.
 - 3 The Commissioner,
Erode City Municipality Corporation, Erode.
- +1 CC to Mr.M.Ravi Advocate. SR.NO.57302
+1 CC to Mr.M.Rajamathivanan Advocate. SR.NO.57318

W.P.No.33252 of 2015
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CO-
JD 20/10/2015

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