

In the High Court of Judicature at Madras

Reserved Date: 14-10-2015

Pronounced Date: 27-10-2015

Coram:

The Hon'ble Mr. Justice M. Jaichandren

W.P.No.17052 of 2012 and
M.P.No.1 of 2012 and M.P. No.1 of 2015

K.Ashok Kumar

.. Petitioner.

Versus

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

2. The Secretary to Government,
Municipal Administration,
Water Supply Department,
Fort St. George, Chennai-9.

.. Respondents.

Prayer: Writ Petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records and quash the order Po.Thu.Na.Ka.No.E13/33902/2008, dated 13.1.2009, issued by the 1st respondent and consequently, direct the 1st respondent to appoint the petitioner on compassionate ground basis.

For petitioner : Ms.N.Beulah John Selvaraj

For respondents: Mr.A.Karthika Ashok (R1)

Mr.R.Ravichandran

Additional Government Pleader (R2)

ORDER

Heard the learned counsel appearing for the petitioner, as well as the learned counsels appearing on behalf of the respondents.

2. This Writ Petition has been filed praying that this court may be pleased to issue a Writ of Certiorarified Mandamus to call for the records and quash the order of the first respondent, dated 13.1.2009, and to consequently direct the first respondent to appoint the petitioner on compassionate ground.

3. The petitioner has stated that his father K.Adinarayanan, who was employed as a Masthiri, under the Corporation of Chennai, had died on 25.1.2001, while he was in service. After the death of his father, the petitioner had given an application to the respondent Corporation, seeking employment on compassionate ground on 10.5.2002. The petitioner had been informed that the government had issued a ban order on appointments. Thereafter, the petitioner had submitted another application, to the first respondent, dated 26.5.2005. The Tahsildar, Mambalam Guindy Taluk, had issued a certificate stating that no member of the family of K.Adinarayanan, who had died in harness, was working in the Central or the State Governments. The said Tahsildar had also issued a certificate stating that the family was in indigent circumstances. However, the first respondent had rejected the application made by the petitioner stating that the petitioner had not submitted his application, within three months from the death of his father K.Adinarayanan and therefore, the petitioner is not entitled to be considered for being appointed on compassionate ground. The learned counsel had relied on the decision reported, in J.Jeba Mary Vs. The Chairman, Tamil Nadu Electricity Board, Anna Salai, Chennai, 2011 (3) LLN 405 (Mad.).

4. The learned counsels appearing on behalf of the respondents had placed before this court a communication issued by the Secretary, Municipal Administration and Water Supply Department, Chennai, dated 11.4.2008, stating that, as per the letter of the government, in Letter No.202, Labour and Employment Department, dated 8.10.2007, the persons making an application for being considered for appointment on compassionate ground should make such application, within three years from the date of the death of the government servant. In the present case, the father of the petitioner had died on 25.1.2001. However, the petitioner had submitted his application only on 26.5.2005. Therefore, the request of the petitioner for being appointed on compassionate ground had not been considered.

5. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that the father of the petitioner, namely, K.Adinarayanan had died on 25.1.2001, while in harness. The petitioner, who was 16 years of age at the time of the death of his father, had made an application for compassionate appointment, on 26.5.2005, belatedly. No proof has been shown, by the petitioner, to substantiate his claim that he had submitted an application to the first respondent, on 10.5.2002. It is a well settled position in law that compassionate appointments can be made only on the death of the government servant, and if the dependant members of the family of the person who had died in harness are found to be in indigent circumstances. The Supreme Court has stated, repeatedly, that compassionate appointments are made, without following the regular

rules of recruitment and therefore, such appointments ought to be made, strictly, as per the rules applicable and guidelines laid down for the said purpose. In the present case, the petitioner ought to have made an application within a period of three years from the date of the death of his father i.e. 25.1.2001. However, he had submitted an application, only on 26.5.2005, belatedly. As such, the application submitted by the petitioner, on 26.5.2005, cannot be considered by the respondents for appointing the petitioner on compassionate ground. In such circumstances, this Court is of the considered view that the present writ petition, filed by the petitioner, is devoid of merits. Hence, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Csh

Sd/-

Assistant Registrar (CS.VII)

/True Copy/

Sub-Assistant Registrar

To

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.
2. The Secretary to Government,
Municipal Administration,
Water Supply Department,
Fort St. George,
Chennai - 600 009.

+1 C.C. To MR.N.Beulah John Selvaraj, Advocate in SR.NO.58385

+1 C.C. To Mrs.Karthikaa Ashok, Advocate in SR.NO.58467

+1 C.C. To Government Pleader in SR.NO.58798

W.P.No.17052 of 2012

VGI (CO)

sd : 24/11/2015