



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD) No.13673 of 2014
and MP(MD)No.1 of 2014

Gunasundarraaj

... Petitioner

Vs.

1.The Principal Chief Engineer cum
Chief Engineer,
Public Works Department,
(Construction and General),
Chepauk, Chennai 6.

2.The Chief Engineer,
Public Works Department,
(Construction and Maintenance)
Trichy Division,
Trichy 1.

3.The Superintending Engineer,
Public Works Department,
(Construction and Maintenance)
Trichy Division,
Trichy 1.

4.The Executive Engineer,
Public Works Department,
PWD(Buildings and Maintenance)
Division, Karur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandams calling for the records pertaining to the impugned order in Letter No.S3(4)/64399/2012, dated 16.05.2014 passed by the 1st respondent insofar as refusing to entertain the petitioner's application for compassionate appointment and consequently direct the 1st respondent to give compassionate appointment to the petitioner and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.R.J.Karthick for
Mr.R.Subramanian

For Respondents : Mr.K.P.Krishnadoss,
Government Advocate.

ORDER

The petitioner is aggrieved against the order of the first respondent, dated 16.05.2014 rejecting his request for compassionate appointment on the ground that such request was made beyond the period of three years from the date of the death of the employee and that the



petitioner's elder brother has already made an application seeking for compassionate appointment and therefore, second application by the petitioner is not maintainable.

2.The case of the petitioner is as follows:-

The petitioner's father was working as Executive Engineer in Public Works Department and died on 14.10.2000 while he was in service. His mother made an application on 27.11.2000 seeking for compassionate appointment to his elder brother Saravanasundaram. The second respondent through proceedings dated 24.09.2006 recommended such request to the first respondent. However, as there was some delay in extending the benefit of compassionate appointment, the petitioner's brother expressed his unwillingness to accept the compassionate appointment. Consequently, the petitioner's mother through representation dated 04.08.2009 sought for compassionate appointment to the petitioner. After various communications between the parties, the present impugned order came to be passed.

3.The fourth respondent has filed counter affidavit wherein it is stated as follows:-

The petitioner's father died on 14.10.2000 and the petitioner's mother preferred an application on 27.11.2000 praying for compassionate appointment for her elder son Saravanasundaram. The said request was recommended to the first respondent. In the meantime, G.O.Ms.No.212, P & AR Department dated 29.11.2001 came to be issued banning the appointment in the Government services. The ban was lifted on 17.07.2006. Thereafter, the petitioner's mother was called upon to furnish further details. Originally, the petitioner has also given consent for giving compassionate appointment to his brother. Though the petitioner has possessed necessary qualification, he has given consent for his brother to seek the compassionate appointment. However, on 04.08.2009, the petitioner's mother submitted second application to appoint the petitioner instead of her elder son. As the said application was filed after three years from the date of death of the petitioner's father, the request was rejected.

4.Heard the learned counsel on either side and perused the materials placed on record.

5.In this case, the first application seeking for compassionate appointment was made immediately after the death of the employee. The said fact is not disputed. No doubt such request was made seeking for compassionate appointment to the elder brother of the petitioner. It is not the case of the respondents that such request was rejected. On the other hand, they themselves admitted that there was a ban on appointment between 2001 and 2006. Therefore, in the meantime, there was a change in the mind of the petitioner's family and consequently, they sought appointment to the petitioner instead of petitioner's brother as sought for earlier. Such fact is also admitted in their counter affidavit. As the second application is made not after rejection of the first application and on the other hand, it is in continuance of the earlier application, I am of the view that the respondents are not justified in rejecting the request of the petitioner seeking for compassionate appointment by holding the same is made after three years. The elder son Saravanasundaram also filed an affidavit dated 22.02.2015 stating that he



has no objection for processing the petitioner's application for compassionate appointment.

6.Considering the above stated facts and circumstances, I am of the view that the respondents are not justified in rejecting the request of the petitioner seeking for compassionate appointment. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to consider the claim of the petitioner seeking for compassionate appointment and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writ)

/True copy/

Sub Assistant Registrar

sms

To

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Chief Engineer,
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Chepauk, Chennai 6.

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PWD(Buildings and Maintenance)
Division, Karur.

+1cc to MR. R.SUBRAMANIAN,ADVOCATE IN SR NO.8258

+1cc to Special Government Pleader Sr NO. 8889

Writ Petition (MD) No. 13673 of 2014

23.02.2015

rg.02.03.2015

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