

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 10.06.2015****CORAM:****THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN****W.P. (MD) No.9243 of 2015**

Senthilvel

... Petitioner

Vs.

1.The Principal Secretary,
Public Works Department,
Secretariat,
Chennai - 600 009.

2.The Chief Engineer,
Ground Water Circle (PWD),
State Ground and Surface Water Resources Data Centre,
Tharamani, Chennai 600 113.

3.The Executive Engineer,
Public Works Department,
Ground Water Circle,
Madurai 02.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Letter No.174/2011/A6, dated 15.02.2011 passed by the third respondent and to quash the same and consequentially direct the respondents to consider the petitioner's application for appointment under compassionate grounds in a proper perspective within a stipulated time.

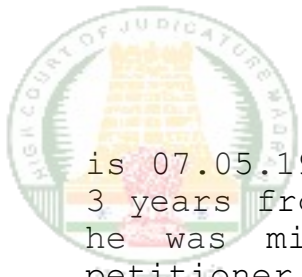
For Petitioner : Mr.T.Sugadev

For Respondents : Mr.K.P.Krishnadoss, GA

O R D E R

The petitioner has come forward with the present Writ petition, seeking to issue a Writ of Certiorarified Mandamus, calling for the records in Letter No.174/2011/A6, dated 15.02.2011 passed by the 3rd respondent and to quash the same and consequentially, direct the respondents to consider the petitioner's application for compassionate appointment within a stipulated time.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The case of the petitioner is that the petitioner's father died on 21.11.1989 while he was in service and at that time, the petitioner was only 3 years. The date of birth of the petitioner



is 07.05.1986. The petitioner has not made any application within 3 years from the date of demise of his father since, at that time, he was minor and hence, he could make an application. The petitioner is one of the legal heirs and after attaining majority in the year 2004, he has sent an application on 29.11.2001 to the 3rd respondent for compassionate appointment. However, the same was rejected by the 3rd respondent on 15.02.2011 stating that the petitioner has made the application for compassionate appointment after a period of 17 years. Hence, the order of the 3rd respondent is liable to be interfered with and the case of the petitioner should be considered.

3.The learned counsel for the petitioner contended that since the petitioner was facing financial constraint, he was unable to approach this Court to challenge the impugned order dated 15.02.2011 passed by the 3rd respondent.

4.The learned Government Advocate appearing for the respondents submitted that it is true that the petitioner has made application for compassionate appointment after a delay of 17 years.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6.Admittedly, the petitioner has not sent the application for compassionate appointment within 3 years from the date of death of his father. However, on attaining the age of 18 years, he sent the application for compassionate appointment on 29.11.2001, but, the same was rejected on 15.02.2011. Further, the petitioner has approached this Court by challenging the impugned order dated 15.02.2011 belatedly i.e., after a period of 3 years. The contention of the petitioner that as he was facing financial constraint, he was not able to approach this Court in time. The said contention cannot be accepted.

7.In a decision reported in **2008(14) SCC 295 (Eastern Coalfields Ltd. Vs. Dugal Kumar)** (supra), the Hon'ble Supreme Court has held as follows:

"24.As to delay and laches on the part of the writ petitioner, there is substance in the argument of learned counsel for the appellant Company. It is well settled that under Article 226 of the Constitution, the power of a High Court to issue an appropriate writ, order or direction is discretionary. One of the grounds to refuse relief by a writ court is that the petitioner is guilty of delay and laches. It is imperative, where the petitioner invokes extraordinary remedy under Article 226 of the Constitution, that he should come to the court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ is indeed an



adequate ground for refusing to exercise discretion in favour of the applicant."

8. The persons, like the petitioner must realize that this Court is not a recruiting agency and that compassionate employment cannot be granted as a matter of course as held by the Hon'ble Supreme Court in the case of **Bhawani Prasad Sonkar vs. Union of India and others**, reported in **2011 (3) LLN 37 (SC)**. The relevant portion of the judgment of the Honourable Supreme Court (supra) is extracted as follows:

"20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of Rules of Regulations issued by the Government or a Public Authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make Compassionate Appointment dehors the Scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependents of the deceased/incapacitated employee viz., Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III & IV posts."

9. In view of the decision cited supra, this Court is not inclined to grant the relief to the petitioner. Hence, the Writ petition is dismissed on the ground of laches. No costs.

Sd/-
Asst.Registrar(AS)

/True Copy/

Sub Asst. Registrar



To

1. The Principal Secretary,
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3. The Executive Engineer,
Public Works Department,
Ground Water Circle,
Madurai 02.

+1.c.c to M/s. K.J. Associates SR.No.29233

+1.c.c to M/s. Spl GP. SR.No.29784

nbj

SB:15/7/2015 6c

W.P. (MD) No. 9243 of 2015