

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 10.11.2016

Delivered On: 02.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.6371 of 2014

M.Priya

..

Petitioner

vs.

1.The Commissioner,
Chennai Corporation,
Rippon Building,
Park Town, Chennai-600 003.

2.The Law Officer,
Legal Cell,
Chennai Corporation,
Rippon Building,
Park Town, Chennai-600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records to the letter dated 20.02.2014 of the second respondent, sent to the petitioner in his S.A.G.U.Na.Ka.No.C1/Special/2014 and quashing the same and directing the respondents to consider the appointment of the petitioner in Corporation on compassionate ground.

For Petitioner : Mr. P. Chandrasekaran

For Respondents : Mr.T.C.Gopalakrishnan,
for R1 and R2

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The Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the letter of the second respondent dated 20.02.2014 in proceedings in S.A.G.U.Na.Ka.No.C1/Special/2014 and direct the respondents to consider the appointment of the petitioner in the Chennai Corporation on compassionate ground.

2. The petitioner's father namely K.Mani, was employed and served as Assistant in the Legal Cell Corporation at Chennai. While the petitioner's father was in service, he died in harness on 11.04.1992, leaving behind the petitioner, his mother M.Lakshmi and sister Abirami. At the time of death of her father, the petitioner was a minor and was 11 years old. After the demise of her father, the petitioner's mother submitted an application on 25.11.1992 to the first respondent, requesting to provide her appointment on compassionate ground. Since the petitioner's mother was receiving family pension and other monetary benefits, her application for compassionate appointment has not been considered. The petitioner would contend that receipt of family pension and other monetary benefits of his father, would not disentitle her mother from getting appointment on compassionate ground and in fact, Service Rules of the respondent Corporation provides for compassionate appointment and she has applied for the same on 25.11.1992 well within the period of three years from the date of death of her husband. The petitioner's mother sent several reminders dated 12.09.1994 and 15.12.1995, but no response was forthcoming. The petitioner attained majority in the year 2000 and on 04.04.2006, the petitioner's mother submitted application seeking appointment on compassionate ground to the petitioner. Thereafter, on 18.09.2007, the petitioner herself submitted an application to the first respondent seeking appointment on compassionate ground stating that her family was in financial constraint, followed by reminders dated 20.05.2010 and 06.02.2014. However, the second respondent, vide proceedings dated 20.02.2014 in No.S.A.G.U.Na.Ka.No.C1/ Special/2014 has informed the petitioner that her request for compassionate appointment could not be considered, as her application dated 06.02.2014 was beyond the period of twenty years from the date of death of her father on 11.04.1992 and it is contrary to G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995. Challenging the said order, the present writ petition is filed.

3. When the matter is taken up for consideration, learned counsel appearing for the petitioner by adverting to the averments made in the affidavit would contend that the petitioner's mother had diligently made the claim in the year 1992 and thereafter sent repeated reminders and even after the petitioner attaining majority in the year 2000, she had applied for her son and thereafter, the petitioner herself has submitted application seeking appointment on compassionate ground and therefore, it cannot be said that the application was submitted beyond a period of twenty years from the date of demise of her father. In support of his submissions, the learned counsel appearing for the petitioner relied upon the following judgments:

- (i) Syed Khadim Hussain v. State of Bihar and Others [(2006) 9 SCC 195]
(ii) Mohanlal v. The Director, Land and Survey Department, Kancheepuram and Others [2011 (1) CTC 349]
(iii) R.Manimozhi v. The Director, Public Health and Preventive Medicine Department, Teynampet, Chennai-600 006 [2011 Writ L.R. 279]

4. Heard Mr.T.C.Gopalakrishnan, learned counsel appearing for the respondents and had also gone through the entire materials available on record.

5. A careful perusal of the records would show that the petitioner's father died on 11.04.1992 and at that time, the petitioner was only 11 years and the petitioner would have attained majority after seven years i.e., during 2000. Whereas the petitioner's mother submitted application on behalf of the petitioner only in the year 2006 and not within the period of three years from the date of attaining majority. Since almost 20 years had lapsed from the date of death of the petitioner's father and during this intervening period, the petitioner family has been able to survive. Considering the above facts and circumstances, this Court is of the view that there is no merit in this writ petition. Even the judgments relied on by the learned counsel appearing for the petitioner have no application to the case on hand.

6. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Chennai Corporation,
Rippon Building, Park Town, Chennai-600 003.
- 2.The Law Officer,
Legal Cell, Chennai Corporation,
Rippon Building, Park Town, Chennai-600 003.

+1cc to Mr.Chandra sekaran, Advocate, S.R.No.71344

W.P.No.6371 of 2014

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