

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.1576 of 2015

T.Dinakar

.. Petitioner

vs.

1.The Principal Secretary to Government,
Public Health and Preventive Medicine Department,
Fort St.George,
Chennai-600 009.

2.The Director of Public Health and
Preventive Medicine,
Teynampet, Chennai-600 006.

3.The Deputy Director of Health Services,
Thanjavur, Thanjavur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records of the second respondent in his communication dated 26.11.2014 in R.No.71402/E4/2014/S3 and quash the same and consequently directing the respondents to appoint the petitioner in the compassionate grounds in any one of the suitable post.

For Petitioner : Mr.G.Elanchezhiyan
for M/s.P.Sivakumar

For Respondents : Mr.K.Dhanjayan,
Special Government Pleader

ORDER

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would state that he is the son of Late Thangaraj, who was working as Medical Officer in Venkarai, Government Primary Health Centre and he died in harness on 17.10.1997, leaving behind the petitioner, his mother Tmt.Dhanalakshmi, as well as his sisters Ramila and Punitha and his brother T.Manivannan as legal heirs. The petitioner, after the demise of his father, applied for appointment on compassionate ground on 22.09.1999 and on 20.10.1999, the third respondent directed him to produce all the relevant documents and it was also produced by him. However, to his shock and surprise, the third respondent, nearly after a lapse of 10 years, rejected his application on the ground that he has not applied for appointment on compassionate ground within the stipulated time of three years from the date of death of his father. The petitioner has also filed W.P.No.13377 of 2014, and this Court, disposed of the writ petition, vide order dated 21.07.2014, by directing the respondents to consider and pass orders on the petitioner's representation dated 09.11.2014 on merits and in accordance with law within a time frame. The petitioner, armed with the said order, approached the

second respondent praying for appointment on compassionate ground on 28.07.2014 and it was rejected on the ground that the documents required has been submitted nearly after 9 years from the date of submission of the application and further he cannot claim such appointment as a matter of right. Challenging the same, the petitioner has come forward with this writ petition.

3. Mr.G.Elanchezhiyan, learned counsel appearing for the petitioner has drawn the attention of this Court to the materials placed as well as the judgment of the Hon'ble Supreme Court of India in ***Canara Bank and Another v. M.Mahesh Kumar [AIR 2015 SC 2411]*** and would submit that once the application seeking appointment on compassionate ground is submitted within the stipulated time, despite lapse of period, it should be considered provided all the procedural formalities are complied with and admittedly, the petitioner has complied with all the procedural formalities and as such, there cannot be any impediment on the part of the respondents to give appointment to the petitioner on compassionate ground and prays for appropriate orders.

4. *Per contra*, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that the petitioner got married

subsequently and in the affidavit, he has not whispered as to how he is eking out his livelihood for nearly 16 years after the demise of his father and the underlining object of granting compassionate employment is to enable the family to tide over the sudden crisis and the petitioner and his family is able to survive for quite long time and the required documents have been submitted only after 9 years from the submission of application and therefore, the second respondent has rightly rejected his application and therefore, prays for dismissal of this writ petition.

5. This Court has considered the rival submissions.

6. It is a well settled position of law that compassionate appointment cannot be claimed as a matter of right as it is not a vested right and the Court should not stretch the provision by liberal interpretation beyond permissible limits on humanitarian grounds and such appointment should, therefore, be provided immediately to redeem the family in distress and it is improper to keep such a case pending for years. [See ***MGB Gramin Bank v. Chakrawarti Singh, (2014) 13 SCC 583***].

7. This Court, keeping in mind the above said legal principle, has carefully scanned through the entire materials placed before it.

8. In compliance of the order dated 27.01.2014 made in W.P.No.13377 of 2014, the request made by the petitioner has been considered and the required documents have been submitted by the petitioner nearly after 9 years from the date of submission of the application and the explanation offered by the petitioner is that in the Legal Heir Certificate, his name has been wrongly noted and as such, the delay has occurred in correcting the same. In the considered opinion of the Court, the said reason cannot be said to be satisfactory and the relevant fact, namely the petitioner and his family were able to survive for nearly 16 years after the demise of his father have also to be taken note of by this Court. The petitioner, after getting married, is also able to maintain his family for so many years. The object of giving compassionate appointment is to meet out the immediate financial crisis and that the petitioner is able to survive without employment for nearly 16 years and the reason assigned in the impugned order was that the required documents have been submitted by the petitioner after 9 years from the date of submission of the application and therefore, this Court is of the view that

reasons assigned in the impugned order does not suffer from any infirmity or any error apparent on the face of the record.

9. In view of the reasons assigned above, this Writ Petition is dismissed. No costs.

14.12.2016

Index : Yes / No
Internet : Yes / No
jvm

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M.SATHYANARAYANAN. J

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