

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.10.2016

CORAM

The Honourable MR. JUSTICE M. GOVINDARAJ

W.P.No.4078 of 2011

and MP Nos.1 & 2 of 2011

P.Baskaran

... Petitioner

Vs

1 State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St. George, Chennai.

2 Director General of Police,
DGP Office,
Chennai 4.

3 Superintendent of Police,
Ariyalur District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records of the second respondent relating to impugned order dated 12/9/07 made in R.C.No.89050/C.A.2/2007 of the 2nd respondent and quash the same as null and void and consequently direct the second respondent to appoint the petitioner as Junior Assistant.

For Petitioner : Mr.R.Gokulakrishnan
for Mr.P.Premkumar

For Respondents : Mr.S.Gunasekaran
Additional Govt. Pleader

ORDER

Heard Mr.P.Premkumar, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Additional Government Pleader appearing on behalf of the respondents.

2. The writ petitioner challenges the rejection order of the second respondent dated 12.09.2007 against the claim made by the petitioner for appointment of compassionate basis.

3. The father of the petitioner was working as a police constable and he died on 13.11.1990. Originally the petitioner's sister has applied for appointment under compassionate ground and in spite of the repeated attempts, no appointment was given to the petitioner's sister. Finally the third respondent by his letter dated 02.09.2002, recommended the petitioner's name to the second respondent on compassionate ground. The petitioner's mother, sister and brother have given no objection certificate in favour of the petitioner.

3. The respondent have verified the certificate of 3rd respondent and vide his letter dated 03.04.2003, requested the 2nd respondent to give waiting list number to the petitioner to appoint him as Junior Assistant on compassionate ground. In the meanwhile the petitioner's mother also passed away on 23.12.2007 and the family was put in precarious circumstances and the petitioner was the only support to his family.

4. It is further stated that on 12.09.2007, vide impugned order, the second respondent stated that in view of the G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995, the application for appointment on compassionate ground should be made within three (3) years from the death of Government servant. It is observed that even after expiry of three years time limit, the petitioner was only a minor, attaining the age of 14 and that, reservation cannot be made against compassionate appointment. Therefore the request for the compassionate appointment was rejected.

5. The learned counsel appearing for the petitioner would take this court into various judgments of this Court reported in [a] **(2011) 2 CWC 83** [G.Saravanakumar vs. The Chairman, Tamil Nadu Electricity Board, No.144, Anna Salai, Chennai 2 and others] ; [b] **(2011) (8) MLJ 457** [B.Arun Kumar Vs. Secretary to the Government of the Tamil nadu, Small Industries Department, Chennai 9 and others] ; [c] **(2011) 1 CTC 349** [Mohanambal Vs. The Director, Land and Survey Department, Kancheepuram, Kancheepuram District and others] and various other judgments. In all the above judgments, this Court has observed that the three (3) years limitation period will apply from and after the Government Order issued by the Government dated 26.06.1995. There could be no limitation in the case of death of the Government servant who died prior to 26.06.1995.

6. In the instant case the petitioner's father died in the year 1990 and the application for appointment on compassionate ground was made in time. In response to the application, the third respondent by his letter No.Na.Ka.V1/88991/94 dated 19.12.1994, had directed the Inspector of the concerned jurisdiction to conduct certain enquiries about the family and to submit a report. Therefore, it is very clear that even prior to the issuance of the Government order dated 26.06.1995, the petitioner's mother has made

an application for appointment of her daughter, on the basis of compassionate ground.

7. In view of the judgments of this Court cited supra, it is suffice to direct the 2nd respondent to reconsider the appointment of the petitioner on compassionate ground and pass orders, after taking note of the above cited judgments. It is made clear that the above exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

The Writ Petition is ordered accordingly. No Costs. Connected miscellaneous petitions are also closed.

jv

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1 The Secretary to Government,
Home Department,
Government of Tamil Nadu
Fort St. George, Chennai.

2 Director General of Police,
DGP Office,
Chennai 4.

3 Superintendent of Police,
Ariyalur District.

+1 CC Mr.R.Gokulakrishnan Advocate SR.No.58106

+1 CC Government Pleader SR.No.58232

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MSI 08/11/2016