IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-11-2016
(Orders reserved on 26-10-2016)

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34062 of 2015
and
M.P.No.1 of 2015 and W.M.P.No.26619 of 2016

M.Arunagiri ... Petitioner

Vs.

1. Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
Pumping Station Road,
Chindadripet, Chennai-600 002.

2. The Staff Manager/Public Information Officer,
PIO, CMWSS Board,
Pumping Station Road,
Chindadripet, Chennai-600 002. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the letter No.45427/PNB/A.3/2012, dated 17.04.2013 and quash the same, as the same was contrary to the letter F.No.CMWSSB/PMN/NM6/30232/2011, dated 06.09.2011 of the second respondent and consequently to direct the first respondent to consider the petitioner's representation, dated 20.12.2004 and provide an employment on the basis of compassionate ground.
(Prayer amended as per order dated 22.09.2016 in W.M.P.No.26618 of 2016 in W.P.No.34062 of 2016)

For Petitioner : Mr.P.Ayyamperumal

For Respondents : Mr.N.Ramesh

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the letter No.45427/PNB/A.3/2012, dated 17.04.2013 and quash the same, as the same was contrary to the letter F.No.CMWSSB/PMN/NM6/30232/2011, dated 06.09.2011 of the second

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respondent and consequently to direct the first respondent to consider the petitioner's representation, dated 20.12.2004 and provide an employment on the basis of compassionate ground. (Prayer amended as per order dated 22.09.2016 in W.M.P.No.26618 of 2016 in W.P.No.34062 of 2016).

2. It is the case of the petitioner that his father K.Manickam was working as MO-GR-II in the pumping station of the respondents-CMWSSB. He died on 05.12.2002 while in service. After the death of his father, his mother submitted a representation on 09.06.2003 seeking employment in the respondents-Board for the petitioner's sister Ms.Kannagi, on compassionate grounds, as his father was serving in the respondents-Board. At the time of seeking employment for the petitioner's sister, the petitioner was minor. Due to the petitioner's sister's ill-health, vide representation dated 20.12.2004, compassionate employment was sought for the petitioner himself. The petitioner's sister requested the respondents that the compassionate appointment may be considered for the petitioner by cancelling her earlier application submitted by her mother. There was no response from the respondents. Hence, the petitioner submitted a letter dated 09.05.2013 to the Chief Minister's Special Cell, inviting the earlier representations sent on two occasions, dated 16.11.2012 and 26.03.2013, as confirmed vide letter dated 17.04.2013 of the respondents-Board written to CM's Special Cell. While so, by letter dated 17.04.2013, the petitioner was informed that employment on compassionate grounds cannot be considered, since the application seeking compassionate employment was made after 13 years from the date of the death of the petitioner's father. Even though the petitioner has sought for information under the Right to Information Act from the respondents, there was no response. Hence, the petitioner has filed this Writ Petition for the relief stated supra.

3. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that it is incorrect to state that the application for compassionate appointment had been submitted after 13 years. In fact, after the petitioner's father's death on 05.12.2002, his mother submitted a representation on 09.06.2003 for his sister and due to the petitioner's sister's ill-health, the petitioner himself submitted a representation on 20.12.2004 seeking compassionate appointment. Without considering these aspects, on erroneous reasons, the petitioner's application was rejected. In fact, there has been continuous correspondence with the respondents seeking compassionate appointment. On the above aspects, learned counsel for the petitioner invited the attention of this Court to paragraph 11 of the counter affidavit, wherein it is admitted

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that the applications, dated 09.06.2003 and 20.12.2004 were submitted, seeking compassionate appointment.

4. Learned counsel for the respondents-CMWSSB, by filing detailed counter affidavit, submitted that after the demise of K.Manickam while in service, his wife Tmt.Valarmathi, by her application dated 09.06.2003, applied for appointment on compassionate grounds for her daughter Selvi.M.Kannagi. Her application was taken on record and kept in the waiting list. Learned counsel for the respondents further submitted that another application, dated 20.12.2004 was submitted, wherein, appointment on compassionate grounds was requested to the petitioner herein only on the ground that he had attained 18 years of age.

5. Learned counsel for the respondents further contended that the Government, vide Letter No.28324/MW2/2006-5, dated 29.06.2007 clarified that, "to consider the alternative legal heirs for appointment with their original seniority, the Government have not issued any order so far." Further, the Government, vide Letter No.20257/MW-2/2011-1, dated 22.08.2011 and also in Letter No.8463/MW2/2012-6, MA and WS Department, dated 03.10.2013, clarified that there is no provision to consider the alternative legal heirs, when the application of another eligible member of that family is pending.

6. Learned counsel for the respondents further argued that the appointment on compassionate grounds is offered to the family of the deceased-employee only to overcome the sudden financial crisis and it cannot be claimed as a matter of right. Such appointments are offered strictly according to the guidelines prescribed for the purpose. Learned counsel for the respondents invited the attention of this Court to G.O.Ms.No.225, Labour Department, dated 15.02.1972, wherein, the Government prescribed rules for providing appointment on compassionate grounds and also relaxed the general procedure of recruitment through the Employment Exchange to all posts, which is out of the purview of the TNPSC in favour of son/daughter/near relatives of the Government servant, leaving the family in indigent circumstances, subject to certain conditions. The candidates seeking employment, should possess all the prescribed qualification for the posts concerned and these conditions should not be relaxed in individual cases. Learned counsel for the respondents further submitted that as there is no provision to consider the employment on compassionate grounds for the alternative legal heir, as stated above, the petitioner is not entitled for the relief sought for in this Writ Petition.

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7. Keeping in mind the above submissions made by the learned counsel for the parties, I have considered the same and perused the materials available on record.

8. On a perusal of the impugned order, dated 17.04.2013, I find that the appointment on compassionate grounds, was rejected, only on the ground that the application was submitted after 13 years, whereas, in the counter affidavit, in paragraph 11, it is admitted that the application was earlier submitted by the petitioner's mother on 09.06.2003, i.e. it is within three years of the death of the petitioner's father, which was on 05.12.2002.

9. It is also contended that there is no rule to provide compassionate appointment to the alternative legal heir. In this case, admittedly, as per the earlier request of the petitioner's mother, the employment was not provided to the sister of the petitioner. That being the position, there cannot be any impediment to consider the application seeking compassionate appointment of the petitioner, which was submitted on 20.12.2004, which is also within three years from the date of death of the petitioner's father, which was on 05.12.2002.

10. Therefore, for the foregoing reasons, the impugned order dated 17.04.2013 is quashed. The Writ Petition is allowed. The respondents are directed to consider the petitioner's representation, dated 20.12.2004 with regard to the petitioner's request for compassionate appointment, within a period of three weeks from the date of receipt of a copy of this order. No costs. The Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
   Chennai Metropolitan Water Supply
   and Sewerage Board,
   Pumping Station Road,
   Chindadripet, Chennai-600 002.

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2. The Staff Manager/Public Information Officer,
PIO, CMWSS Board,
Pumping Station Road,
Chindadripet,
Chennai-600 002.

+1cc to Mr.N.Ramesh, Advocate, S.R.No.63485
+2cc's to Mr.P.Ayyamperumal, Advocate, S.R.No.62570

W.P.No.34062 of 2015

SM(CO)
CA(08/11/2016)

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