

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.14909 of 2012
and
M.P.Nos.1 and 2 of 2012

N.Palani

.. Petitioner

Versus

1. The Engineer in Chief (WRD),
And the Chief Engineer (General),
Public Works Department,
Chepauk, Chennai - 600 005.
 2. The Chief Engineer (WRD),
Design Research & Construction Support,
Public Works Department,
Chepauk, Chennai - 600 005.
 3. The Superintending Engineer,
Director,
Institute of Hydrolic and Hydrology,
Poondi Village,
Tiruvallur Taluk & District.
 4. The Deputy Director,
Institute of Hydrolic & Hydrology,
Poondi Village,
Tiruvallur Taluk and District.
- .. Respondents

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to fourth respondent's proceedings in Letter Na.Ka.No.E1/1766/2010, dated 07.04.2011 to quash the same and direct the respondents to provide employment to the petitioner in any one of the suitable post on compassionate ground in the fourth respondent office.

For Petitioner : Mr. M. Muthappan
For Respondents : Mr. A. Kumar
Special Government Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/>
This Writ Petition has been filed to call for the records relating to the proceedings of the fourth respondent in Letter Na.Ka.No.E1/1766/2010, dated 07.04.2011, to quash the

same and direct the respondents to provide employment to the petitioner in any one of the suitable post on compassionate ground in the fourth respondent office.

2. The father of the petitioner Late Natesan was working as a Carpenter in the fourth respondent Office and he died on 21.5.1983 during the course of his employment. At the time of the death of petitioner's father, the petitioner was a minor, therefore, the mother of the petitioner has submitted application to the fourth respondent on 10.05.1984, 12.03.1986 and 12.10.1988 seeking to provide employment to the petitioner on compassionate ground after he attains majority. As there is no response, the petitioner's mother submitted repeated representations. Ultimately, on 04.11.2010, the petitioner submitted a representation reiterating the request made by his mother to appoint him on compassionate grounds. The said application dated 04.11.2010 was rejected by the fourth respondent by the impugned order dated 07.04.2011 on the ground that the application seeking appointment on compassionate ground has been made after 16 years from the date of death of the deceased Government servant. Challenging the order dated 07.04.2011, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner would submit that the petitioner could not have submitted an application for appointment on compassionate ground within three years from the date of death of his father, as he was a minor by then. However, the petitioner's mother has submitted repeated representations to the respondents to provide any suitable employment to the petitioner on compassionate ground after he attains majority. But the said applications were was acknowledged by the respondents. Thereafter, the representation dated 04.11.2010 was given by the petitioner which was rejected by the fourth respondent on the ground that such application has not been submitted within a period of 3 years from the date of death of his father.

4. The learned counsel for the petitioner relied on the judgment of the Division Bench of this Court reported in the case of [J.Bhuvankumar Vs. Commissioner, Employment and Training Department and another] 2014 (6) MLJ 228 and (Jayapal. C vs. The Director of Medical Education), 2005 (5) CTC 655 to contend that when the petitioner was minor at the time of death of his father, the application submitted by him after he attained majority can be considered by the respondents for conferring appointment to him on compassionate grounds. It is also held that even if one of the family members is given appointment in government service and he is not lending any financial support to the family of the deceased, still appointment on compassionate grounds can be considered.

5. The learned Special Government Pleader appearing for the respondents, relying on the counter affidavit, would contend that there was no application submitted by the mother of the petitioner on behalf of the petitioner. There was no proof produced to that effect. In other words, according to the learned Special Government Pleader for the respondents, an application seeking compassionate appointment has not been made within a period of three years, as required. Further, he would contend that it is for the petitioner to prove that even after 16 years of death of the deceased government servant, the family of the petitioner is in dire need and necessity to get appointed on compassionate ground. He would also submit that the petitioner's brother was already employed and that too in Government service and hence, this Writ Petition is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

7. It is trite that for the purpose of appointment on compassionate grounds, one of the foremost requirement is an application seeking appointment on compassionate ground has to be made within three years from the date of death of the deceased government servant. In this case, it is contended that the mother of the petitioner has submitted such applications in time, but there is no proof produced to show that they were received or acknowledged by the department concerned. In the absence of the same, it can be construed that the application submitted by the petitioner is highly belated. The learned Special Government Pleader also categorically states that no such application has been received by the department and immediately after receipt of the application for the first time from the petitioner on 04.11.2010, it was rejected by the fourth respondent on 07.04.2011 clearly stating that such application has been submitted 16 years after the death of the deceased government servant and therefore it cannot be entertained. Therefore, I am of the considered view that the fourth respondent is fully justified in rejecting the application of the petitioner seeking appointment on compassionate ground..

8. In the decisions relied on by the learned counsel for the petitioners, mentioned supra, it was held that even if one of the family members is appointed in government service, yet, appointment on compassionate ground can be considered. The ratio laid down by the Division Bench of this Court cannot be made applicable to this case. In this case, there is no such pleading made by the petitioner that brother was already employed in government service, rather, he has suppressed the same. Further, as rightly pointed out by the learned Special Government Pleader, it is for the petitioner to prove that even after 16 years of death of the deceased government servant, his family has no means to survive. I am of the view that such a burden has not been proved by the petitioner in any manner and therefore, I find

no reason to interfere with the order of rejection of the fourth respondent.

9. In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vrc/rsh

To

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And the Chief Engineer (General),
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Poondi Village,
Tiruvallur Taluk and District.

+1cc to Mr.M. Muthappan, Advocate, S.R.No.45629
+1cc to the Government Pleader, S.R.No.45602

NR(CO)
EU(12/11/2016)

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