

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2016

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE M.VENUGOPAL

W.A.No.96 of 2016
and
C.M.P.No.1179 of 2016

- 1.The Secretary to Government,
Government of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Secretariat,
Chennai - 9.
 - 2.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Secretariat,
Chennai - 9.
 - 3.The Principal Secretary/Director,
Office of the Additional Director of
Survey and Land Records,
Department of Survey and Land
Records, Survey House,
Chepauk, Chennai - 5.
 - 4.Assistant Director,
Department of Survey and Land
Records, District Office,
Tiruvarur, Tiruvarur District.
- .. Appellants
- Vs.

E.Vignesh .. Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 11.02.2014 made in W.P.No.3927 of 2014.

Prayer in W.P.3927 fo 2014:- Writ petition is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorarified mandamus to Call for the records of the 3rd respondent in Na.Ka. Ra.1/15059/ 2012 (Ni.A) dated 22.5.2012 and the order of the 4th respondent in

proceedings in Na.Ka. A4/6117/13 dated 24.1.2013 (signed on 28.1.2014) and quash the same and consequently direct the 3rd respondent to provide employment to the petitioner for compassionate appointment in any suitable post.

For Appellants .. Ms.A.Srijayanthi,
Spl. Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

Notice to the sole respondent is dispensed with at this stage, as no adverse order is passed against him in this writ appeal. With the consent of the learned Special Government Pleader appearing for the appellants, the writ appeal is taken up for final disposal at the stage of admission.

2.The instant writ appeal is directed against the order dated 11 February 2014. The writ petitioner/respondent herein, feeling aggrieved by the proceedings dated 24 January 2013 whereunder his application for appointment on compassionate grounds was rejected on the ground that he had not made an application within the prescribed period of three years, has filed the writ petition.

3.The learned single Judge considered the case from all angles and allowed the writ petition holding that the mother of the writ petitioner had made an application within a period of three years, which was not considered and acted upon within the reasonable time. Before the application of the writ petitioner's mother was considered and appointment order was passed on 14 December 2007, the writ petitioner made an application on 30 November 2006 to consider his candidature in lieu of his mother for appointment, after attaining majority. Again, the appellants failed to take note of the same and passed an order, rejecting the application of the writ petitioner after a period of 7 years i.e. on 24 January 2013.

4.The learned Special Government Pleader appearing for the appellants submits that the writ petitioner has made an application beyond the period of three years and as such the application was rightly rejected on the ground that the same was not made within the prescribed period.

5.Indisputably, the compassionate appointment is made to give assistance to a distressed family on account of the demise of the breadearner in harness. There is no dispute that the father of the writ petitioner and husband of the first applicant viz., mother of the writ petitioner died on 05 June 2001 and at

the time of death, he was working as an Assistant. The dependent members needed immediate succour and relief. Accordingly, the application for appointment was made on 10 September 2001 by the mother of the writ petitioner as the writ petitioner was not a major and eligible to seek employment. However, the authorities failed to take action within the reasonable time. In the meantime, the writ petitioner attained majority and made an application on 30 November 2006 to consider his candidature in lieu of his mother. After receipt of the said application, the authorities passed an order on the application of the mother and issued appointment order dated 14 December 2007 to her, ignoring completely the subsequent application made by the writ petitioner.

6. In the case on hand, when the writ petitioner, who is young and is also one of the dependant members of the family, made an application before the disposal of his mother's application, the application of the writ petitioner cannot be held as beyond time.

7. In such view of the matter, it would have been proper to consider the application of the writ petitioner instead of his mother's application for appointment. Thus the learned single Judge has rightly allowed the writ petition, directing the appellants herein to consider the claim of the writ petitioner for compassionate appointment on merit and to appoint him in any suitable post. The order of the learned single Judge is just and proper, warranting no interference. Thus the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar

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1 cc to M/s. Government Pleader, Sr. 6516

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