

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40240 of 2016

C.Saravana Kumar

... Petitioner

Vs.

1. The commissioner of Sugar,
No.690, Anna Salai,
Chennai - 600 035.

2. The Managing Director,
The Salem Co-Op Sugar Mills Ltd.,
Mohanur - 637 015.
Namakkal District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for appointment in a regular post on compassionate ground in the 2nd respondent sugar mills, consequent o the death of petitioner's father on 05.06.1974.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.T.Girija,
Government Advocate for R1

: Mr.R.Bala Ramesh,
Additional Government Pleader
for R2

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider the claim of the petitioner for appointment in a regular post on compassionate ground in the 2nd respondent sugar mills, consequent o the death of petitioner's father on 05.06.1974.

3. The father of the petitioner, late Thiru D.Chinnasamy was working as Crane Unload Operator in the Salem C-op Sugar Mills Ltd., Mohanur, Namakkal District. When he was on duty, on 05.06.1974, he met with a fatal accident and died on the spot at the factory itself, leaving behind his wife, minor daughter and the petitioner, who was 4 months old, as his legal heirs. At that time, petitioner's mother made representation to appoint her on compassionate grounds. Since she was bereft of educational qualification, her request was not considered. But, she was informed that she may renew her application after the petitioner attaining age of 18 years.

4. The petitioner, after acquiring diploma qualification in Mechanical engineering in April 1996, on 14.11.1998, applied to the Management of the Sugar Factory and his name was registered at serial No.1 of list of applicants for compassionate ground appointment. Thereafter, the petitioner was continuously making representations to the special officers of the sugar mill. Even though the juniors in the above list were given appointments on compassionate grounds, he was not given appointment by the successive special officers.

5. During the year 2013, the petitioner was called to appear for interview and after perusing his certificates, he was told that his application was belated as per G.O.Ms.No.120, Labour and Employment, dated 26.09.1995, as he did not submit his application within the limitation period of three years. It was pointed out by the petitioner to the special officer that the Government had clarified in Gov.letter No.39924/Q1/95-1 dated 11.10.1995 Labour & Employment Department that the time limit of three years would apply only to the dependents of Government servants, who died while in service on or after 16.06.1995 and G.O.Ms.No.120, Labour and Employment Department is not applicable for the past cases.

6. Eventhough the petitioner was informed by the special officers that his claim will be considered while filling up the vacant posts, as per Rules (vide letter in Na.Ka.No.1331 /Ka.Aa./ Tho.Na.Aa. / 2011 dated 16.11.2011), his claim was not at all considered though suitable vacancies arose .

7. While the facts remain so, the management of the sugar mill, orally offered an appointment to the petitioner as draughtsman (CLR) from 12.04.2014 during cane crushing season and he worked about 12 months on daily wages basis in the engineering section. Thereafter, he was not allowed to attend duty. The petitioner has submitted his representations dated 10.12.2015 and 07.04.2016 to the first respondent to give appointment, at the earliest, on compassionate grounds in the

second respondent mill. But the same was not considered. Hence, the present writ petition.

8. When the matter was taken up for consideration learned counsel for the petitioner submitted that the petitioner's name was placed in the waiting list as No.1 for a long time. Hence, he sought for consideration of his representation.

9. Accordingly, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to give a fresh representation, to the first respondent, along with a copy of this order, within a period of two weeks, from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The commissioner of Sugar,
No.690, Anna Salai,
Chennai - 600 035.
2. The Managing Director,
The Salem Co-Op Sugar Mills Ltd.,
Mohanur - 637 015.
Namakkal District.

+1cc to Mr.M.Ravi, Advocate, S.R.No.66862
+1cc to Mr.R.Bala Ramesh, Advocate, S.R.No.66045
+1cc to the Government Pleader, S.R.No.66731

W.P.No.40240 of 2016

MG(CO)
CA(20/12/2016)