



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

C O R A M

WEB COPY

THE HONOURABLE Dr.JUSTICE S.VIMALA

Writ Petition (MD) No.4283 of 2015
and
M.P.(MD)No.1 of 2015

J.Vadivel Ramanan

.. Petitioner

Vs.

1. The District Collector,
Collectorate, Madurai District,
Madurai.

2. The Tahsildar,
North Taluk, Collectorate,
Madurai.

.. Respondents

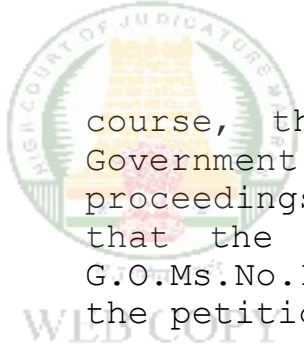
Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.73824/2011/G1, dated 01.10.2014 on the file of the Respondent No.1 and quash the same as illegal and consequently for a direction, directing the respondent No.1 to provide appointment to the petitioner in the post of Junior Assistant in Revenue Department or in any other competent post on compassionate grounds within a stipulated time.

For petitioner ... Mr.T.Lajapathi Roy

For Respondents ... Mr.V.R.Shanmuganathan
Special Government Pleader

O R D E R

This writ petition has been filed, seeking for compassionate appointment to the petitioner on account of his father's death, on 11.07.2000, who died while he was in service. Pursuant to the death of his father, initially, the wife of the deceased sought appointment for her daughter through her representation dated 17.08.2000. Once the petitioner attained majority, the petitioner being the son of the deceased, has made an application seeking compassionate appointment, on 04.05.2005. The said representation was unresponsive, till 23.07.2008, of-



course, there was a ban in appointing the candidates in the Government jobs. While so, the second respondent by his proceedings dated 23.07.2008 has rejected the proposal stating that the application was not made in time and also as per G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995, the petitioner is not eligible to get compassionate appointment.

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

3. The petitioner made representations dated 14.09.2009 and 10.10.2011. However, as there is no response, the petitioner has filed W.P.(MD)No.9226 of 2012 seeking direction to respondent No.1 to 3 to provide appointment to the petitioner in the post of Junior Assistant in Revenue Department or in any other competent post on compassionate grounds within a stipulated time. The said writ petition was disposed of by order dated 30.04.2014 directing the petitioner to approach the authorities, who had to pass orders in the manner known to law.

4. After the order of this Court, dated 30.04.2014, the first respondent has passed the impugned order dated 01.10.2014, rejecting the claim of the petitioner for compassionate appointment on the grounds that (i) the petitioner cannot make fresh application when the earlier application submitted by his mother on behalf of his sister is pending and (ii) there is a delay in submitting the application for compassionate appointment.

5. The learned counsel for the petitioner relied upon the Judgment of this Court in **MOHANAMBAL v. THE DIRECTOR, LAND AND SURVEY DEPARTMENT**, reported in **2011 (1) CTC 349**, wherein it has been held as follows:-

"12. Here in this case, the petitioner's mother applied for compassionate appointment within one year and she was not given appointment due to want of minimum qualification of 8th standard and the petitioner being the only other legal heir, pursuing the matter and agitating her right for all these years. In the light of the present financial status of the petitioner, the decision reported in **SYED KHADIM HUSSAI v. STATE OF BIHAR, 2006 (9) SCC** (cited supra) applies to the facts of this case.

13. In view of the above findings, applying the above cited judgments to the facts of this case, the impugned order dated 07.11.2008 is set aside and the matter is remitted back to the second respondent to consider the claim of the petitioner in the light of the Income Certificate produced from the Tahsildar, Ambattur, dated 23.11.2010 and pass a revised orders within a period of four weeks from the date of receipt of a copy of this order."



6. The fact remains that the first application for appointment on compassionate ground has been made in time. When the family members wanted to change the applicant, the second application should be treated as extension of the first application / continuation of the first application. Therefore, the ground of limitation on which the application has been rejected is unsustainable. Hence, the impugned order dated 01.10.2014 of the first respondent is quashed. The respondents are directed to provide appointment to the petitioner, subject to qualification, within a period of four weeks from the date of receipt of a copy of this order.

7. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate, Madurai District,
Madurai.
2. The Tahsildar,
North Taluk, Collectorate,
Madurai.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 79417

RJ2

TE/PM-PN : 17/02/2017 : 3P/4C

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