



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

C O R A M

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.18896 of 2016

J.Bala Sankar

.. Petitioner

Vs.

1.The Director General of Police,
State of Tamil Nadu,
Kamaraj Salai, Chennai.

2.The Commissioner of Police,
Madurai City, Madurai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned letter issued by the 2nd respondent herein by his letter Na.Ka.No.A4/33414/2016, dated 05.08.2016 and quash the same and consequently direct the respondents herein to appoint the petitioner herein for appointment on compassionate ground in anyone of the posts to which he is suitable.

For petitioner

... Mr.V.Pasumpon

For Respondents

... Mr.T.S.Mohammed Mohideen

Additional Government Pleader

O R D E R

This writ petition has been filed challenging order of the second respondent, dated 05.08.2016 and consequently direct the respondents herein to appoint the petitioner herein on compassionate ground in anyone of the posts to which he is suitable.

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

3.In the order dated 17.01.2013, it has been specially mentioned that the deceased Joseph died on 05.06.2009 and the application for compassionate appointment was made on 08.05.2012; <https://hcservices.hcscourts.gov.in/hcservices/> application, the petitioner was aged about only 17 years; therefore, the petitioner is not competent to claim appointment on compassionate ground.



4. In the same order, the date of birth of the petitioner is mentioned as 17.12.1994. Therefore, on the date of application, i.e. on 08.05.2012, the petitioner is aged 18 years 2 months. Hence, factually, the finding that the petitioner is only completed 17 years is incorrect and therefore, the order dated 17.01.2013, is liable to be set aside.

5. Giving the very same reason, another order, dated 05.08.2016 has been passed and this is also liable to be set aside on the very same reasoning.

6. The learned counsel for the respondents would submit that the petition for compassionate appointment though stated to have been filed within a period of three years from the date of death of the deceased, on the date when the applications were given on 08.05.2012 and 20.06.2016, these two applications are barred by limitation.

7. This contention cannot be accepted, in the light of the decision of the Division Bench of this Court in **THE CHIEF ENGINEER, TAMIL NADU ELECTRICITY BOARD v. N. ELAVARASAN** reported in **2013 (3) LLN 736**, is relied upon, where under, it was held as follows:-

"In T. MEER ISMAIL ALI v. THE TAMIL NADU ELECTRICITY BOARD, CHENNAI, 2004 (3) CTC 120, a learned single Judge of this Court, now, Hon'ble Mr. Justice F.M. Ibrahim Kalifulla, Judge, Supreme Court of India, held as under:

"I am, therefore, of the view that the petitioner's case deserve consideration inasmuch as he had diligently made a claim once in the year 1997 and thereafter, immediately after attaining the age of 18, in the year 2000 and in such circumstances, rejection of his Application on the ground that it was not made within three years was not justified."

8. Under such circumstances, the impugned order of the second respondent, dated 05.08.2016 is set aside and the respondents are directed to consider the representation of the petitioner, dated 20.06.2016, in the light of the Division Bench Judgment and to pass orders, within a period of four weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1.The Director General of Police,
State of Tamil Nadu,
Kamaraj Salai, Chennai.

2.The Commissioner of Police,
Madurai City, Madurai.

+1 cc to MR.V.PASUMPON, Advocate Sr.No.61264

+1 cc to Special Government Pleader Sr.No.61648

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SMA/PV/SAR-I/26.10.2016:3P/5C