



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) No.16389 of 2013

and

M.P (MD) Nos.1 of 2013 and 1 of 2014

M.K.Kuumaresh Babu

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai.

2.The Commissioner of Labour,
Teynampet,
Chennai - 600 006.

3.The Deputy Commissioner of Labour,
Madurai.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in proceedings No.G3/40418/11, dated 24.01.2013, quash the same and directing the respondents to give appointment to the petitioner on compassionate ground.

For Petitioner : Mr.Rameshkumar

For Respondents : Mr.Aairam K.Selvakumar
Govt. Advocate

O R D E R

This writ petition has been filed by the petitioner challenging the impugned order of the second respondent in proceedings No.G3/40418/11, dated 24.01.2013 and seeking a direction to the respondents to give appointment to the petitioner on compassionate ground.

2. The case of the petitioner is that his mother, namely, Tmt. J.K.Manjula was employed as Assistant in the office of the third respondent. On 16.10.1997, she died while in service due to cancer. She left behind the petitioner and his father and sister as legal heirs. At that time, the petitioner was minor aged about 4 years and his fathers was old and his sister was also a minor. Therefore, after attaining majority, on 02.05.2011, the petitioner submitted an application to the third



respondent requesting him for appointment on compassionate ground. It is the further case of the petitioner that his sister has given no objection. The third respondent received the petitioner's application and sent a reply dated 25.05.2011 asking him to furnish twenty documents for considering his application. The petitioner also submitted all the necessary documents. But the second respondent sent a letter dated 24.01.2013 rejecting the petitioner's claim for compassionate appointment on the ground that he has not submitted his application within three years overlooking the fact that he was a minor at that time. Challenging the same, the petitioner has filed the present writ petition.

3. A counter affidavit has been filed by the respondents, wherein, it has been specifically stated that for consideration of appointments on compassionate grounds, the applications should be received within three years from the date of death of Government Servant and the date of receipt of application should be taken into account to decide the minimum age limit and educational qualifications of the applicant. Therefore, the very rejection of the petitioner's claim in the impugned order is valid and prays this Court for dismissal of the writ petition.

4. Heard Mr.Rameshkumar, learned counsel appearing for the petitioner as well as Mr.Aairam K.Selvakumar, learned Government Advocate appearing for the respondents.

5. Learned counsel appearing for the petitioner submitted that at the time of death of the mother, the petitioner and his sister were minors and they were not eligible to be appointed in a post, therefore, they have not given any application. When the petitioner's mother died, the petitioner was aged about 4 years. Hence, the case of the petitioner may be considered sympathetically. In support of his contention, the learned counsel produced a Judgment of the Honourable Division Bench of this Court made in W.A(MD)No.1367 of 2011 dated 22.03.2012. The relevant portion of the said Judgment reads as follows:-

"5.It is relevant to point out that on a similar relief sought for in W.A(MD)NO.1362 of 2011, this Court, by Judgment, dated 23.01.2012, directed the State Government to grant appointment to the appellant therein on compassionate grounds, following the decision of a Division Bench of this Court in W.P.Nos.19914 of 2004, 32409 of 2004 and 10577 of 2005, dated 24.07.2006 as well as in W.A.No.1206 of 2006, dated 29.09.2006. On the admitted fact that the respondent was minor at the time of his father's death, we have no hesitation in confirming the order of the learned Single Judge."



6. Following the above said Judgment and considering the facts and circumstances of the case and considering the fact that when the petitioner's mother died, the petitioner was aged about 4 years, the case of the petitioner may be considered sympathetically. Since this Court very categorically held in the above writ appeal that the legal heir was minor at the time of death of the employee, after attaining majority he applied for the same and hence, the Judgment is squarely applicable to the petitioner's case.

7. Therefore, I am inclined to pass the following orders:-

(a) the impugned order is set aside and the respondents are directed to consider the petitioner's claim of appointment under the compassionate grounds,

(b) the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai.

2. The Commissioner of Labour,
Teynampet,
Chennai - 600 006.

3. The Deputy Commissioner of Labour,
Madurai.

+1cc to Mr.D.Ramesh Kumar, Advocate in SR No.59962

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