

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH,
AND
THE HONOURABLE DR.JUSTICE S.VIMALA

W.A.NO.274 OF 2017
&
C.M.P.No.4314 of 2017

T.Dinakar Appellant/Petitioner

Versus

1. The Principal Secretary to Government,
Public Health and Preventive
Medicine Department,
Fort St.George,
Chennai-600 009.
2. The Director of Public Health and
Preventive Medicine,
Teynampet,
Chennai-600 018.
3. The Deputy Director of Health Services,
Thanjavur,
Thanjavur District. ... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order of the learned single Judge dated 14.12.2016 in W.P.No.1576 of 2015.

W.P.No.1576 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the 2nd respondent in his communication dated 26.11.2014 in R.No.71402/E4/2014/S3 and quash the same and consequently directing the respondents to appoint the petitioner on the compassionate grounds in any one of the suitable post.

For Appellant : Mr.C.Selvaraju,
Senior Counsel for
Mr.P.Sivakumar

For Respondent : Mr.A.Srijayanthi,
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by
HULUVADI G. RAMESH, J.)

This Writ Appeal has been directed against the order of the learned single Judge dated 14.12.2016 in W.P.No.1576 of 2015, dismissing the writ petition filed by the appellant, seeking compassionate appointment.

2. According to the appellant, his father Late Thangaraj, died in harness while working as Medical Officer on 17.10.1997. The appellant applied for appointment on compassionate ground on 22.9.1999, i.e. within a period of three years from the date of death of the employee. Thereafter, the matter was not persuaded and after a lapse of nearly 10 years, the third respondent rejected the application on the ground that it was claimed belatedly. Thereafter, in the year 2014, the appellant approached this Court by filing a Writ Petition in W.P.No.13377 of 2014, which came to be disposed of, directing the authorities to consider and pass orders on the representation of the appellant. Again, the claim of the appellant came to be rejected by the authorities on 28.7.2014 on the ground that the documents required were submitted nearly after 9 years from the date of submission of the application and that the compassionate appointment cannot be claimed as a matter of right. Aggrieved by the same, the appellant filed the Writ Petition in W.P.No.1576 of 2015.

3. The learned Judge, after adverting to the rival submissions of the parties, dismissed the writ petition stating that the required documents were produced by the appellant after a period of 9 years and the explanation offered by the appellant that since his name was wrongly mentioned in the legal heir certificate and in correcting the same, the delay had taken place, was not accepted. The learned Judge also was of the view that the petitioner and his family were able to survive for nearly 16 years after the demise of his father, the family cannot be said to be under indigent circumstances so as to provide employment on compassionate ground. With these reasons, the learned Judge dismissed the Writ Petition. Challenging the order of the learned Judge, the appellant has come forward with the present writ appeal.

4. It is to be noted that after expiry of his father, the appellant applied for compassionate appointment well within the period of three years, however, it was returned by the authorities, calling for certain documents. It appears that in ration card and legal heirs certificate, the name of the appellant was wrongly mentioned as 'Dinakaran' instead of 'Dinakar' and in getting rectified the same from the Revenue Department, it took considerable time for the appellant and the

delay was not at the instance of the appellant and therefore, it cannot be considered that the appellant applied for appointment only on 28.7.2014. In fact, as could be seen from the proceedings of the 3rd respondent, dated 21.10.1999, the appellant was directed to resubmit the application along with required certificates as mentioned therein. Therefore, when the application was originally made within the prescribed period of three years and when it was returned for compliance of defects, it cannot be considered that the application was made belatedly. It is to be noted that sudden death of a bread winner of a family, will certainly cause considerable financial crisis to the family unless any one of the members was in earning position and only in order to mitigate the said situation, the scheme of compassionate appointment has been brought in. Mere survival of the family for any number of years does not revive the situation from indigent circumstances. Admittedly, it is not the case of the respondents that any of the members of the deceased family was employed and in substantial position to look after the family. Therefore, depriving the compassionate appointment merely on the ground that the family has been surviving for the years together, in our view, cannot be a reasonable one and sustainable. Moreover, the appellant has also produced indigent certificate issued by the Tahsildar, Kandavakottail Taluk, Pudukottai District. Further, it is to be noted that the appellant was not age barred as on date and there would be no much impediment for the authorities to reconsider the application of the appellant for appointment on compassionate grounds.

5. Accordingly, the order of the learned Judge is set aside and the respondents are directed to consider the application made by the appellant and pass appropriate orders, providing appointment on the compassionate grounds, within a period of three months from the date of receipt of a copy of this order.

With the above direction, this Writ Appeal is disposed of. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Public Health and Preventive
Medicine Department,
Fort St.George, Chennai-600 009.

2. The Director of Public Health and
Preventive Medicine,
Teynampet,
Chennai-600 018.

3. The Deputy Director of Health Services,
Thanjavur,
Thanjavur District.

+1cc to the Government Pleader, S.R.No.22831

+1cc to Mr.P.Sivakumar, Advocate, S.R.No.22185 (28.04.2017)

W.A.NO.274 OF 2017

KGK (CO)
CA (26/04/2017)



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