

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.967 of 2017
and C.M.P.No.13318 of 2017

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 023.
- 2.The Zonal Officer,
Zone-III, Greater Chennai Corporation,
Pulianthope,
Chennai-600 012. Appellants

-vs-

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.
2. K.Sankar ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.14758 of 2010 dated 10.11.2016.

W.P. No 14758/2010:

Writ petition filed under article 226 of the constitution of India prying this Hon'ble Vourt to issue a Writ of Certiorarified Mandamus, calling for the records and quash the order No Po.Thu.Na.Ka.E11/4803/08 dated 20.05.2008 issued by the Respondent and consequently direct the respondent to appoint the petitioner on compassionate basis to any post in any section commensurate to the Petitioners qualification etc.,

For Appellant : K. Karthikaa Ashok
For Respondent R2 ::Mr.N.G.R.Prasad for
Mr.N.Beulah John Selvaraj

For Respondent R1 :: Mr.V.Jayaprakash Narayanan,
Special Government Pleader
for R1

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

This writ appeal has been filed against the order passed by this Court dated 10.11.2016 in W.P.No.14758 of 2010 allowing the claim of the second respondent herein by directing the first appellant and the first respondent herein to consider the case of the second respondent and accommodate him in any suitable post under compassionate ground.

2.The second respondent's father was employed as a labourer for Malaria Decilting work in Zone-1 of the appellant-Corporation and he died on 25.08.1986 while he was in service. The second respondent's mother, who was also employed as Sweeper in Division 43, Unit IX, Zone III, also died on 15.08.1990, while in service. At the time of the death of his father, the second respondent was 7 years old and at the time of the death of his mother, he was 11 years old. The second respondent was residing in his aunt's house with his younger brother. On attaining the age of majority, the second respondent made an application to the appellant-Corporation seeking appointment on compassionate ground in any post commensurate with his educational qualification, ie., 7th Standard. Such application was made on 17.06.1998 and the same has been rejected after a decade, ie., on 20.05.2008 on the ground that within three years from the date of death of the Government servant, the application was not made. As against the same, the second respondent filed a writ petition in W.P.No.14758 of 2010. By order dated 10.11.2016, this Court allowed the writ petition. Challenging the same, the present writ appeal is filed.

3.The learned counsel for the appellants has submitted that the applications received for compassionate appointment are subject to scrutiny and that according to G.O.Ms.No.120, Labour and Employment-I Department, dated 26.06.1995, within three years of the death of the Government servant, the application for compassionate appointment should be made by the legal heir. He further submitted that the Government letter dated 08.10.2007 clarified that the applications for compassionate appointment received after 10 years or 20 years or more, would obviously show that the family cannot be considered to be in indigent circumstances. Stating so, the learned counsel for the appellants prayed for quashing the order of the learned single Judge.

4.Heard the learned Special Government Pleader appearing for the first respondent on the submissions made by the learned counsel for the appellants.

5.The main ground put forth by the learned counsel for the appellants is that the application for compassionate appointment

should have been made within three years from the date of death of the employee while in service, but in the present case, it has not been done. In the order passed by this Court in the writ petition, which is under challenge in this appeal, the learned single Judge has dealt with G.O.Ms.No.120, Labour and Employment-I Department, dated 26.06.1995, and observed that only for those who died after 26.06.1995, the three-years period will be made applicable. It is also the contention of the learned counsel for the appellants that the subsequent Government letter dated 08.10.2007, clarifies that the applications for compassionate appointment received after 10 years or 20 years or more, obviously shows that the family cannot be considered to be in indigent circumstances. With regard to this point, the learned single Judge has held that there are justifiable reasons for the second respondent for not having applied within three years from the date of death of his father and mother. The compassionate appointment is permitted to tide over the situation of the indigent family circumstances, because of the sudden death of the Government employee. Hence, the learned single Judge directed the appellant-Corporation to consider the request of the second respondent for compassionate appointment and accommodate him in any suitable post under compassionate ground, which according to us is in accordance with law and does not require any interference as the said direction has been given taking into consideration the facts and circumstances of the case on hand.

6. In view of the above stated circumstances, the order passed in the writ petition is confirmed and the writ appeal is dismissed. The appellant-Corporation is directed to implement the order passed by this Court in W.P.No.14758 of 2010 dated 10.11.2016, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

सत्यमेव जयते
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

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KM

To

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.

2.The Zonal Officer,
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Chennai-600 012.

3.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.

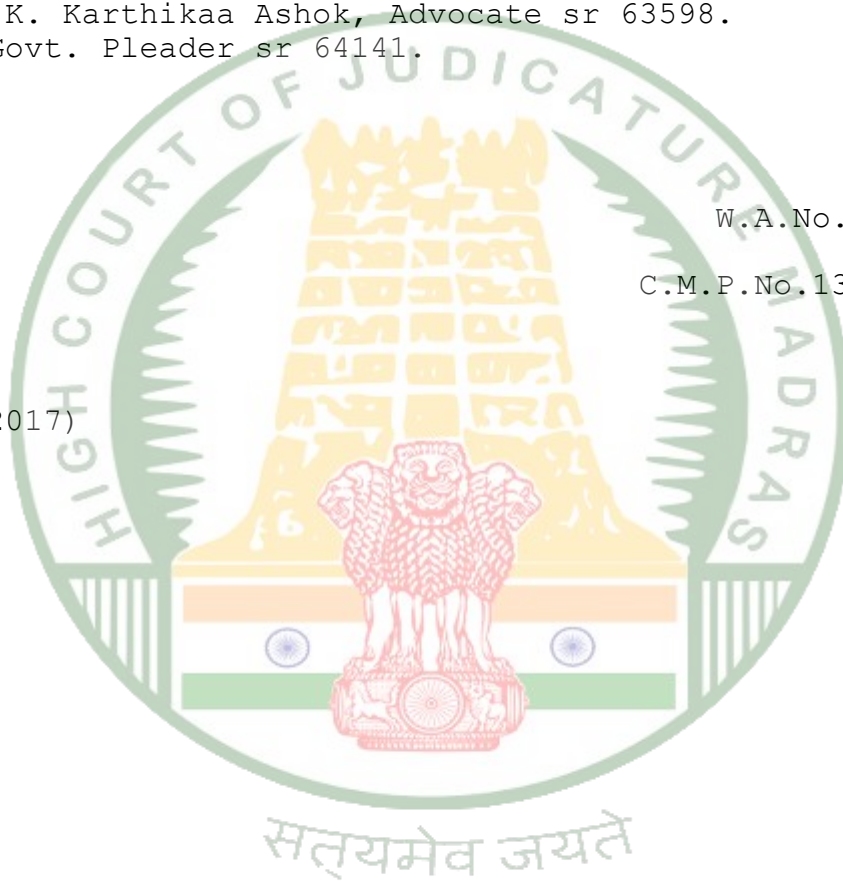
+1 Cc to Mr.N.Beulah John Selvaraj, Advocate sr 64347.

+1 Cc to K. Karthikaa Ashok, Advocate sr 63598.

+1 CC to Govt. Pleader sr 64141.

W.A.No.967 of 2017
and
C.M.P.No.13318 of 2017

SV (CO)
sp (28/09/2017)



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