

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.32631 of 2014

and

M.P.No.1 of 2014

K.Arivukarasumani

.. Petitioner

Vs.

1.The District Collector,
Collectorate, Cuddalore,
Cuddalore District.

2.The Revenue Divisional Officer,
Virudhachalam Taluk,
Cuddalore District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the entire records which culminated in issuing the proceedings in Pa.Mu(A1)/1556/2009 dated 13.10.2011 on the file of the first respondent, quash the same and consequently direct the respondents to appoint the petitioner in any suitable post befitting to his educational qualification on compassionate grounds within a time limit to be stipulated by this Court.

For Petitioner .. Mr.S.Mani

For Respondents .. Mr.T.M.Pappiah,
Spl. Govt. Pleader

ORDER

Challenging the order of the first respondent dated 13.10.2011 and for a consequential direction to the respondents to appoint the petitioner in any suitable post befitting to his educational qualification on compassionate grounds, the present writ petition has been filed.

2.The petitioner's father, who was working as Village Assistant on a regular basis, died during the course of his employment on 23.11.2001, leaving behind three daughters and one son, besides his wife. On the death of the deceased employee,

the family which was wholly dependent on the monthly salary earned by him, was placed in indigent circumstances and was reeling under penury. In the said circumstances, it appears that the widow of the deceased employee submitted an application on 12.08.2002, seeking compassionate appointment. Since there was no action forthcoming, a reminder was also submitted on 06.10.2003 and on 11.12.2006 to the first respondent.

3. In the meanwhile, the present petitioner, who was a minor at the time of the death of his father, had attained majority and therefore, the petitioner's mother was constrained to submit an application seeking compassionate appointment for the petitioner on 02.01.2009. The petitioner has studied upto 10th standard. In response to the application made on 02.01.2009, the first respondent vide proceedings dated 13.10.2011, rejected the claim on the ground that the application seeking compassionate appointment was not made within three years from the date of death of the deceased employee. This rejection order was impugned in the present writ petition.

4. Learned counsel appearing for the petitioner would submit that the rejection on the reason stated in the impugned order is per se erroneous in view of the fact that the application for compassionate appointment was indeed submitted in 2002 and 2003 itself as stated above and therefore the rejection by the first respondent cannot be countenanced both in law and on fact. In any event, the petitioner at that time was a minor and therefore, an application was submitted on his behalf in 2009, when he attained majority. Therefore, it is not proper and fair on the part of the first respondent to give summary rejection to the claim of the petitioner.

5. Be that as it may, subsequent to the rejection order, the second respondent had, vide his proceedings dated 18.03.2013, recommended for compassionate appointment to the petitioner. However, the recommendation was not accepted by the first respondent on the ground that the files relating to the issue had already been destroyed.

6. Upon notice, Mr. T. M. Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and made his submissions. This Court, after having considered the rival submissions of the counsels and after having perused the materials on record and the pleadings, is of the view that the issue of grant of compassionate appointment to the petitioner needs to be reconsidered at the hands of the first respondent, particularly, in view of the categorical statement made by the petitioner that in 2002 and 2003, immediately after the death of the deceased employee, applications were submitted. Moreover, even assuming that no such application was made, in any event after attaining majority in 2009, on behalf of the petitioner,

an application was made. Therefore, summary rejection by the first respondent cannot be countenanced and therefore, the impugned order dated 13.10.2011 is hereby quashed. The first respondent is directed to revisit the claim of the petitioner seeking compassionate appointment for himself on the basis of the indigent circumstances the family is placed, after taking into consideration all other parameters for grant of compassionate appointment to the petitioner and if the petitioner is otherwise eligible and grant him appointment in any suitable post on the basis of his qualification. The said exercise shall be initiated and completed by the first respondent within a period of three months from the date of receipt of a copy of this order.

7.The writ petition stands allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Collectorate, Cuddalore,
Cuddalore District.
- 2.The Revenue Divisional Officer,
Virudhachalam Taluk, Cuddalore District.

+1cc to Mr.S.Mani, Advocate SR.No.50827
+1cc to Government Pleader SR.No.51337

W.P.No.32631 of 2014

SR(CO)
GN(18/08/2017)

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