

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.18782 of 2015

D.Murali Kumar

..

Petitioner

vs.

1.The Chief Manager,
State Bank of India,
Tirupattur,
Vellore District.

2.The Additional General Manager,
State Bank of India,
Region IV,
Zonal Office,
Chennai.

..

Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the second respondent to give petitioner's father's job to him as he is the elder son of his father S.Durairaj deceased on the compassionate ground within the prescribed time stipulated by this Court on the basis of the compassionate ground vide his application dated 5.10.2004.

For Petitioner : Mr.M.Premkumar

For Respondents : Mr.R.Vigneshwaran

O R D E R

The relief sought for in this writ petition is for a direction to

direct the second respondent to provide employment to the writ

petitioner on compassionate grounds.

2. The learned counsel appearing for the writ petitioner contended that the father of the writ petitioner was working as Record Keeper in State Bank of India, Tiruppathur Branch, Vellore District and passed away on 2.4.2004, while he was in service. It is contended that the father of the writ petitioner was the sole breadwinner of the family and due to sudden demise of the father of the writ petitioner, the family was in indigent circumstances. The writ petitioner submitted an application, seeking compassionate appointment on 5.10.2004. However, the respondents have not responded so far and keeping the application pending for the past about 13 years.

3. The learned counsel for the writ petitioner strenuously contended that the compassionate appointment is a right and when the family is in penury, it is the duty of the respondents to consider the case of the writ petitioner for appointment. Further, the writ petitioner submitted his application on 5.10.2004 and waiting for the past more than 13 years and till date no decision has been taken by the respondents in this regard.

4. This Court is of the opinion that though the application, seeking the appointment was filed on 5.10.2004, the writ petition was

filed before this Court only on 17th June 2015, after a lapse of about 11 years. Thus, there is a huge delay even in filing the writ petition before this Court and the writ petition is liable to be dismissed on the ground of laches.

5. The very fact that the writ petition is moved before this Court, after a lapse of 11 years from the date of filing of the application, seeking for compassionate appointment, this Court is able to presume that the indigent circumstances, prevailing during the relevant point of time, vanished. When the family of the writ petitioner is able to survive for more than 11 years even after the demise of the father of the writ petitioner, the writ petition moved before this Court, after a lapse of 11 years, certainly this Court cannot consider the claim of compassionate appointment and the writ petitioner is able to manage the family affairs for more than a decade and the legal presumption is that the indigent circumstances is not in existence. Even in case if the same exists, that alone cannot be a ground for providing compassionate appointment under the Scheme.

6. The Compassionate appointment is a Scheme and not a regular recruitment process. The terms and conditions of the Scheme are to be adhered to in strict sense and the compassionate appointment cannot be construed as a regular recruitment process. The Scheme is

provided for the welfare of the employees and it is a concession provided to the employees. In the event of the sudden demise of an employee, the family will be in penury and to mitigate the circumstances, such a welfare Scheme was introduced by the employers.

7. Thus, such a welfare Scheme has to be implemented in accord with the terms and conditions therein and this cannot be provided after a lapse of many years. The appointment on compassionate grounds shall be provided by the employers within a reasonable period, that is to say, 3 years or 5 years, but not beyond that.

8. Equal opportunity of public employment is a constitutional mandate and all the citizen of this Great Nation is to be provided equal opportunity to compete in the regular recruitment process. If the compassionate appointments are provided after a lapse of many years, certainly it will affect the chances of meritorious candidates, who are waiting outside to compete in the regular recruitment process.

9. This being the view of this Court, no further consideration on the grounds raised in this writ petition is required to be undertaken. Accordingly, the writ petition stands dismissed as devoid of merits. However, there shall be no order as to costs.

21-08-2017

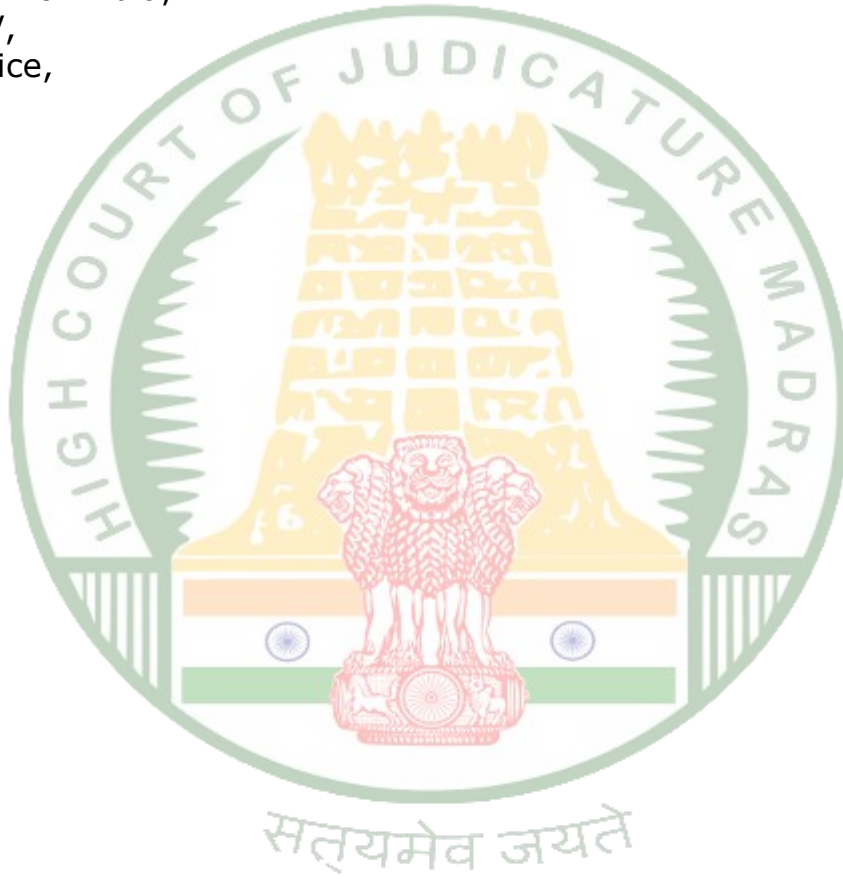
Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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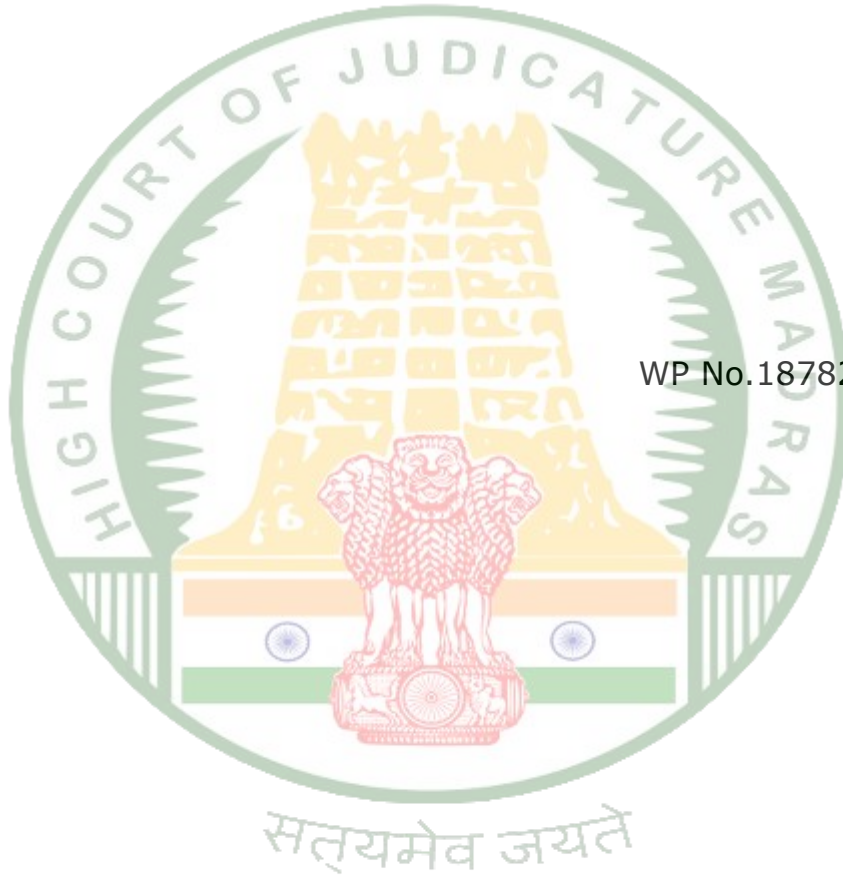
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S.M.SUBRAMANIAM, J.

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