

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.9087 OF 2013

R.Muralidaran

... Petitioner

Vs

1. The Director,
Survey and Settlement Department,
Land Survey Illam,
Chepauk, Chennai 600 005.

2. The Assistant Director
District Land Survey Office,
Thanjavur.

... Respondents

Prayer : - Writ Petition filed under Article 226 of the Constitution of India pleased to issue a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the first respondent herein in its proceedings No.Na.Ka.R1/727/2011 (NI.A) dated 30.09.2011 and order passed by the second respondent herein in his proceedings Na.Ka.A2.5960/10 dated 15.04.2011 and quash the same and consequently direct the respondents to consider the case of the petitioner for appointment on compassionate basis taking into account the date of grant of pensionary benefits for the purpose of calculation of period of limitation for making application for compassionate appointment.

For Petitioner सत्यमेव जयते : Mr.G.Bala and Daisy

For Respondents : Mr.S.Gunasekaran,
Addl. Govt.Pleader

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O R D E R

This writ petition is filed for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the first respondent herein in its proceedings No.Na.Ka.R1/727/2011 (NI.A) dated 30.09.2011 and order passed by the second respondent herein in his proceedings Na.Ka.A2.5960/10 dated 15.04.2011 and quash the same and consequently direct the respondents to consider the case of the

petitioner for appointment on compassionate basis taking into account the date of grant of pensionary benefits for the purpose of calculation of period of limitation for making application for compassionate appointment.

2. The petitioner's father was found missing from the year 2001. The petitioner and his mother had lodged a complaint to the police and the police had registered a First Information Report in Crime No.201 of 2002 and have declared that missing person was untraceable. Thereafter, the petitioner's mother applied for family pension which came to be granted only after a direction given by this Court in W.P.No.10243 of 2009 dated 22.06.2009. Respondents in their letter have recommended for family pension and the Office of the Accountant General (A&E), Tamil Nadu, Chennai have issued a gratuity payment order in proceedings No: AG(A&E)/PEN P33/1/FP/2010-2011/13301310/DGP dated 04.06.2010, pursuant to the letter issued by the Assistant Director, Department of Survey and Land Records, Thanjavur stating that the police have declared that Mr.K.Rajendran, father of the petitioner, who went missing on 06.09.2001 was untraceable.

3. In the meanwhile, the eldest son of the missing person had submitted an application dated 25.03.2010 for appointment on compassionate ground. His representation was rejected by the impugned proceedings in Na.Ka.A2 5960/10 dated 15.04.2011. Aggrieved over the order, the writ petitioner preferred the above writ petition.

4. The impugned order would state that the petitioner should have got a declaration from the civil Court as to the untraceability of his father and should have applied in time according to the rules governing the appointments under compassionate ground. In this case, the father of the petitioner is said to have been missing from 06.09.2001. Since the missing person could not be traced by the police, there was a delay of nine years in submitting the application for appointment on compassionate ground.

5. The learned Additional Government Pleader appearing for the respondents would submit that the application for appointment under compassionate ground should be made within the limitation period.

6. Per contra, the learned counsel appearing for the petitioner would submit that only on declaration by a civil Court, the limitation starts running for submitting their application for appointment on compassionate ground and therefore it is well within the time and in support of this contrary he would rely on a judgment reported in 2013(7) MLJ

653: 2014(12) R.C.R.(Civil) 2852 Madras High Court, in N.Komalavathi Vs. Director of Elementary Education, College Road, DPI Compound, Chennai 600 006 and others. The Hon'ble Court in that case has held that after the fact of death was confirmed by a civil Court order, the cause of action arose and application made within two months was very well within the limitation.

7. The learned counsel would further submit that he would be satisfied if his representation dated 25.03.2010 is disposed of after taking into consideration the judgment of this Court as stated supra.

8. Taking into consideration the judgment of this Court reported in 2013(7) MLJ 653: 2014(12) R.C.R.(Civil) 2852 Madras High Court, in N.Komalavathi Vs. Director of Elementary Education, College Road, DPI Compound, Chennai 600 006 and others and considering the limited prayer, a direction is issued to the respondents to consider the representation of the writ petitioner and pass orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Accordingly this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Director,
Survey and Settlement Department,
Land Survey Illam, सतयमेव जयते
Chepauk, Chennai 600 005.
2. The Assistant Director
District Land Survey Office,
Thanjavur.

+1cc to Mr.G.Bala and Daisy, Advocate, S.R.No.44876
+1cc to the Government Pleader, S.R.No.45324

W.P.NO.9087 OF 2013

KGK(CO)
CS/19/07/17