

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2017

CORAM

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

W.P.No.25996 of 2017

K.Archana

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Petitioner

-vs-

1. The Registrar,  
Central Administrative Tribunal,  
Chennai-600 104.
2. Union of India,  
rep.by the Principal Accountant General (A&E)  
Tamil Nadu,  
No.361, Anna Salai,  
Chennai-600 018.

...

Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the order dated 21.03.2017 passed by the first respondent in O.A.No.292 of 2016, quash the same and direct the second respondent to provide employment to the petitioner on compassionate grounds.

For Petitioner :: Mr.M.P.Mohandass

ORDER

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

This writ petition has been filed to quash the order dated 21.03.2017 passed by the first respondent in O.A.No.292 of 2016 and direct the second respondent to provide employment to the petitioner on compassionate grounds.

2.The case of the petitioner is that her mother Geetha Kannan was working as a Section Officer in the second respondent

office and died while in service on 28.10.1987 due to cancer leaving the petitioner and the petitioner's father. The petitioner's father was working as officer in the office of the second respondent and he opted for voluntary retirement on 09.06.2001 due to loss of eye sight in both eyes and consequent brain tumour. At the time of death of the petitioner's mother, the petitioner was only 20 months old. Hence, after completing her academic studies, ie., M.Sc. I.T., she approached the second respondent for suitable appointment under compassionate grounds on account of the death of her mother, by way of a representation dated 29.10.2007. The petitioner also attended interview and submitted her certificates. Since there was no response thereafter, she made another representation to the second respondent on 28.12.2012 for compassionate appointment. The second respondent rejected the said representation by letter dated 21.03.2013. Aggrieved by the same, the petitioner approached the first respondent Tribunal seeking consideration of her representation dated 28.12.2012, in O.A.No.562 of 2013. An order was passed by the Tribunal on 17.04.2013 directing the second respondent to consider and dispose of the petitioner's representation dated 28.12.2012 in accordance with law, by passing a speaking and reasoned order. On 03.07.2013, there was a communication from the second respondent informing the petitioner that the Selection Committee of the second respondent found the petitioner having reasonable means of subsistence in comparison with other competing candidates and hence the claim of the petitioner is not sustainable. The petitioner approached the first respondent Tribunal again by way of filing an application in O.A.No.292 of 2015 in which an order was passed by the Tribunal on 21.03.2017 rejecting the application, citing various reasons. Hence this writ petition.

3.The learned counsel for the petitioner has submitted that the first respondent ought to have considered the genuine claim of the petitioner and her pathetic condition prevailing as of now, for compassionate appointment. It is further submitted that at the time of the death of the petitioner's mother, the petitioner was only 20 months old and there was no delay in the claim for compassionate appointment. It is also submitted that the terminal benefits of the petitioner's mother were utilised for the treatment of the petitioner's father, since the family pension of her father was inadequate to support his ailment. Stating these reasons, the learned counsel for the petitioner prayed for allowing the writ petition.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.By order dated 21.03.2013, the application filed by the petitioner to consider her request for compassionate appointment

on account of the death of her mother, was rejected by the second respondent on various reasons. It transpires that the petitioner's mother died on 28.10.1987 due to cancer while in service, leaving behind the petitioner and the petitioner's father. The petitioner was 20 months old at the time of the death of her mother. The petitioner's father took on voluntary retirement on 09.06.2001 due to loss of his eye sight and brain tumour. The terminal benefits of the petitioner's mother were utilised for the treatment of the petitioner's father, since the pension received by him was not adequate to carry on his treatment. After the completion of academic studies, ie., M.Sc.I.T., the petitioner made an application for compassionate appointment. It is the contention of the petitioner that even though interview was conducted and she fulfilled all the expectations, she was not selected. She made an application in O.S.No.562 of 2013 before the first respondent Tribunal in which an order was passed by the Tribunal on 17.04.2013 directing the second respondent to consider and dispose of the petitioner's representation dated 28.12.2012 in accordance with law, by passing a speaking and reasoned order. On 03.07.2013, there was a communication from the second respondent informing the petitioner that the Selection Committee of the second respondent found the petitioner having reasonable means of subsistence in comparison with other competing candidates and hence the claim of the petitioner is not sustainable. The petitioner approached the first respondent again by way of filing an application in O.A.No.292 of 2015 in which an order was passed by the Tribunal on 21.03.2017 rejecting the application.

6.It has been observed by the Tribunal that while considering belated requests, where the death of a Government servant took place long back, it should be kept in mind that the concept of compassionate appointment largely relates to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. It has also been observed that the request of the petitioner for compassionate appointment was considered on three occasions during the years 2008, 2009 and 2010 by the Selection Committee but could not be acceded to, keeping in view the spirit of the scheme of compassionate appointment. It was also observed that the petitioner was drawing family pension in respect of the deceased Government servant and her father was also drawing monthly pension for the services rendered and that her father had remarried and his second wife was also employed. Several reasons have been stated for rejection of her prayer for compassionate appointment. Finally, it was inferred that compassionate appointment cannot be granted after a lapse of a reasonable period and also it is not a vested right. Observing that the petitioner is surviving all these years from the year 1987 right from the death of her mother, her request was rejected by the

Tribunal.

7. Even going by the dates and events, we find that the petitioner had not made the application for compassionate appointment within the time frame as per law. She made the application only in the year 2008 initially, by which time, 3-year period after attaining majority, had already been completed. She had not filed the application immediately after attaining majority. She waited for completing her post graduate degree in M.Sc. I.T. and then made the application, and as such, the application itself was time-barred. Further, the reasons stated by the Tribunal in the impugned order for rejection of her request, cannot be brushed aside. The Tribunal has analysed the matter in detail and came to the conclusion that the petitioner is not entitled for compassionate appointment. We find no error or infirmity in the impugned order passed by the Tribunal so as to warrant interference.

8. In the result, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Registrar,  
Central Administrative Tribunal,  
Chennai-600 104.
2. The Principal Accountant General (A&E)  
Tamil Nadu,  
Government of India,  
No.361, Anna Salai,  
Chennai-600 018.

+1cc to Mr.M.P.Mohandass, Advocate, S.R.No.71914

W.P.No.25996 of 2017

CS/25/10/17