

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2017

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THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No. 18044 of 2017

A.Elangovan

.... Petitioner

Vs.

1. The Regional Director,
Municipal Administration,
Chengalpet.

2. The Commissioner,
Nellikuppam Municipality,
Nellikuppam.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceedings in Na.Ka.No.626/2006/C1 dated 13/08/17 & Na.No.1578/17/C1 dated 19.06.2017 and quash the same and thereby direct the respondents to appoint the petitioner in a suitable post on compassionate grounds.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.C.C.Rangarajan (For R1)
Government Advocate

Mr.S.N.Subramani (For R2)

सत्यमेव जयते

ORDER

The relief sought for in this writ petition is challenging the order of rejection passed by the second respondent in proceedings dated 13th August 2007 and 19th June 2017, wherein the writ petitioner sought for an appointment on compassionate grounds.

2. The father of the writ petitioner Late. P.Anandan was working as a Sweeper in Nellikuppam Municipality. He died on 02.02.2005, while in service and thereafter, the writ petitioner had submitted an application seeking appointment on compassionate grounds. Considering the application, the

Commissioner, Nellikuppam Municipality passed an order in proceedings dated 13th August 2007 stating that the mother of the writ petitioner Smt.Visalatshi, wife of Anandan is already working as Sweeper in the Municipality and thereafter, the family cannot be considered as in indigent circumstances. Thus, the application for compassionate appointment was rejected.

3. The learned counsel for the writ petitioner contended that though the initial rejection order was passed in the year 2007, he was pursuing the matter vigorously by submitting number of representations from 2007 onwards. Once again the representations were taken into consideration and an order was issued on 19th June 2017 stating that he has not submitted any application within three years and further stating that the first wife of the deceased late.Thiru.Anandan is already employed in the same Municipality, the claim for compassionate appointment once again cannot be considered.

4. This Court considered the arguments advanced by the learned counsel for the writ petitioner that, India being a socialistic republic, keeps evolving various schemes to further the objectives enshrined in Part IV of our Constitution. It is relevant to take note of the fact that State is required to endeavour for promoting the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political should prevail. The State is also required to make effective provisions for securing the right to work and to public assistance in case of unemployment, old age, sickness, disablement and any other causes of undeserved want. As a part of promotion to the welfare of those recruited by the State to various services established by it, the necessity to provide for employment opportunities to the members of the family of the deceased Government servants has arisen.

5. A Government servant is expected to give his full time attention and energy and render his very best of attention for securing faithful implementation of various schemes and welfare measures brought in place by the State Government. He is termed as a 'round the clock' servant of the State and he should devote and dedicate himself for providing good quality services to the citizens. If, unfortunately, any such employee died in harness, his family members cannot be left behind in distressful conditions, unattended to and uncared for. With the sudden departure of a breadwinner, we should be alive to the fact that most of the Indian families lose the very source of their sustenance. It is not at all difficult for us to imagine that inspite of rapid strides of progress, the country has been making in all Sectors. Still there are several lakhs of families having a single breadwinner and on an average of 4 or 5 hungry persons depend on him for their sustenance and survival. In

such a scenario, if that breadwinner vanished suddenly, it is not at all difficult for us to visualise the harrowing plight to which the family would be reduced to overnight. His savings would be hardly enough to see them through the next couple of months, at best. During the best days of a man, he might have contributed meaningfully, given the fact that whatever marginally that would make a difference to the State Services and consequently the State Government would have earned the goodwill from its grateful citizens for the quality of services rendered to them.

6. Apart from the civil servant enjoying the status as such, upon his death, if his family members who are surviving are not to be taken care of by the State, the prospects are such that a negative image can be spread in the Society that the State never bothers for the well being of the dependants of the Government servants. It is to avoid any such negative image gaining ground, the State Government, as a socio welfare measure, has put in place a mechanism for providing employment to one of the eligible dependants of the family of the deceased Government servant. Several meaningful conditions are attached to be complied with before hand for securing the benefit of the said scheme. The reason being that opportunities of public employment have to be thrown open to competition for one and all. All members who are eligible to be so recruited should be permitted to compete and the best amongst them found suitable can alone get employment. Therefore, an exception is sought to be carved out from this constitutionally assured mechanism of filling up public employment while providing for making appointments on compassionate grounds. Possibly, conditions can be stipulated such as that at the time of death, the left over service of the deceased employee before he attains the age of superannuation should not be less than a reasonable period, say three years or at best five years. Similarly, a stipulation that appointment on compassionate grounds should be claimed as quickly as possible after the death of the civil servant, a duration in this regard can be prescribed not to exceed by a reasonable length of time, say, three years or at best five years. If the surviving members of the civil servant who died with the hardships of life, can get along and carry on their show for considerable length of time after the departure of the breadwinner by far in a reasonable manner, interference can be drawn that the family of the deceased civil servant is able to feed for itself, notwithstanding the loss of the breadwinner. The period of endurance of such a family holds out an assurance that the family has got over the trauma caused by the departure of the breadwinner, but, it has the social resources to carry on with the show in his absence as well.

7. In these set of circumstances, the State Government is certainly justified in directing that no claim for compassionate

appointment should be entertained beyond a reasonable period of say three years or five years, as the case may be. If a family of the deceased civil servant can survive for long periods entirely on their own, it presupposes that the surviving members have the necessary wherewithal to survive, notwithstanding the departure of the breadwinner.

8. When we keep these factors in mind and also in view of the fact that making appointments on compassionate grounds is not one of the identified/marked sources of recruitment to civil service-- rather it is an exception to the normal constitutional norm of allowing all people to contest and compete--appointments on compassionate grounds cannot be made after long years have gone by, from the date of the death of the civil servant.

9. This Court is of the view that in case on hand, the writ petitioner died in the year 2005 and the initial rejection was issued by the Authorities in the year 2007 and the writ petitioner was pursuing the representation for about 10 years till the next rejection order was passed in the year 2017. Altogether 12 years lapsed from the date of death of deceased Government employee. In such circumstances, this Court is unable to come to a conclusion that still the family is in indigent circumstances and unable to meet out the family expenditure. In such view of the matter, this Court is not inclined to consider the grounds raised in this writ petition. Further, compassionate grounds can never be considered as a regular recruitment process and it is only an exception and exception can never be made as a Rule and all the circumstances and the conditions of the scheme have to be fulfilled before getting such an appointment on compassionate grounds.

10. Thus, the grounds raised in the writ petition has no further consideration and accordingly, the writ petition stands dismissed. However, there is no order as to costs.

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Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Director,
Municipal Administration,
Chengalpet.
2. The Commissioner,
Nellikuppam Municipality,
Nellikuppam.

+1 cc to Mr.N.Suresh Advocate sr 50025
+1 cc to Mr.S.N.Subramani Advocate sr 49954
+1 cc to Government Pleader sr 50116

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