

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.18073 of 2017

C.Nagaraj

...Petitioner

versus

1. The District Collector,  
Krishnagiri District,  
Krishnagiri.

2. The Tahsildar,  
Taluk Office,  
Dhenkanikottai,  
Krishnagiri District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, issue a Writ of Mandamus to directing the respondents herein to consider and pass orders on the enquiry dated 29.07.2015 in Ref.No.Na.Ka.16766/2014(A4) within a stipulated period.

For Petitioner : Mr. K.Govi Ganesan  
For Respondents : Mr. C.C.Rengarajan,  
Government Advocate.

O R D E R

The Writ Petitioner is a son of Late Chikkan, who was employed as Village Menial and died on 13th February 2000 while in service. The writ petitioner died leaving behind his first wife Chikka Muniyamma and daughters viz., Munirathna and Varalakshmi and Varadaraj, his second wife's children, writ petitioner and Sarojamma.

2. The learned counsel appearing for the writ petitioner strenuously contended that the family of the writ petitioner is still in indigent circumstances and working as coolie and leading their life. Further, he was pursuing the application for compassionate appointment for the past 17 years vigorously and inspite of that, the respondents have not provided an

opportunity for appointment on compassionate grounds. In this regard, the second respondent issued in proceedings dated 29<sup>th</sup> July 2015. The Tahsildar called the writ petitioner for certificate verification in order to consider the writ petitioner for appointment. The learned counsel contended that in spite of the letter, no action has been taken for the past 2 years and therefore, his right to get a compassionate appointment still exists.

3. This court is of the view that the compassionate appointment is a scheme provided to mitigate the hardship when the family of the Government employee, who died suddenly, is in indigent circumstances and left without any punary to meet out the family expenses. Such being the very purport of the scheme, the same cannot be extended so as to gain employment after a lapse of 17 years from the date of death of the Government employee. Therefore, the right accrued pursuant to the schemes lapsed after a reasonable period of 3 or 5 years. Such being the principle to be adopted, the claim for compassionate appointment now after a lapse of 17 years cannot be considered by the respondents in this regard.

4. 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. In view of this, no further consideration in this matter accordingly. This writ petition stands dismissed. No order of cost.

Sd/-  
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

rkp

To

1. The District Collector,  
Krishnagiri District,  
Krishnagiri.
2. The Tahsildar,  
Taluk Office,  
Dhenkanikottai,  
Krishnagiri District.

+1cc to Mr.K.Govi Ganesan, Advocate Sr. 50016  
+1cc to the Government Pleader, Sr. 50111

W.P. No.18073 of 2017

SK(CO)  
VR(03/08/2017)