

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19612 of 2013

K.Parthasarathy

... Petitioner

Vs

1.Government of Tamil Nadu,
Rep.by its Secretary,
Home Department, Fort.St.George,
Chennai - 600 009.

2.Additional Director General of Police,
State Crime Record Bureau,
No.95, Santhome High Road,
R.A.Puram, Chennai - 600 028.

3.The Superintendent of Police,
Trichy, Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his proceeding Na.Ka.No.P3/32424/2012 dated 28.02.2013 and quash the same and consequently direct the respondents to give compassionate appointment to the petitioner's son Mr.P.Rajesh Kumar as Photographer.

For Petitioner : M/s.K.Raja

For Respondents : Mr.K.Thangapandi
Government Advocate

ORDER

The relief sought for in this writ petition is to quash the order of rejection issued by the 3rd respondent in proceedings dated 28.02.2013 in respect of the claim of the writ petitioner for compassionate appointment.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was working as Senior Photographer in the office of the Third respondent/The

Superintendent of Police. However, on account of the Chronic Diabetic Patient, his left foot got infected ulcer, and finally had undergone the surgery and left leg fingers were amputated. Thus, he is not fit to continue the job as Senior Photographer since it involves travelling. Under these circumstances, the competent authority referred the writ petitioner for medical examination by the board and finally, the board submitted a report holding that the writ petitioner is not fit to continue the job. Accordingly, the order of medical invalidation was issued by the respondent with effect from 17.07.2012.

3. Pursuant to the order of invalidation, the writ petitioner was relieved from service. The learned counsel for the writ petitioner states that the age limit prescribed for seeking compassionate appointment in respect of medical invalidation is 53 years and the writ petitioner was medically invalidated one month after completion of the age of 53 years. The learned counsel urged this Court by stating that the delay has occurred on account of the administrative delay on the part of the 3rd respondent. In fact, the Medical Board has submitted its report in respect of the invalidation even prior to attaining the age of 53 years. However, there was a delay in passing orders by the 3rd respondent. The 3rd respondent after extracting work from him and once again referred his case for the report of the Medical Board. Thus, the learned counsel is of the view that the respondent department has exploited the writ petitioner by extracting the services even after knowing the fact that he is not medically fit to continue the services. The petitioner states that he is deprived of the claim of compassionate appointment to his son on account of long delay in taking a decision by the 3rd respondent.

4. No doubt, the scheme of compassionate appointment can be extended only in accordance with the terms and conditions of the scheme and there cannot be any violation of the terms and conditions. However, in the case on hand, there is an enormous delay on the part of the 3rd respondent in accepting the medical report and passing final orders in respect of the medical invalidation of the writ petitioner. Thus, this Court is inclined to consider the case of the writ petitioner in view of the fact that there is an administrative delay in accepting the medical report by the competent authorities. However, this Court is not inclined to grant the prayer as such sought for in this writ petition.

5. The learned counsel for the writ petitioner referred G.O.Ms.No.314, Labour and Employment Department dated 13.11.1991 wherein appointment on compassionate grounds has to be considered by the Head of the Department and in this regard also, this Court is of the opinion that in the case on hand, the

application was rejected by the 3rd respondent at the first instance and it was not even considered for sending proposal to the Head of the Department on the ground that the application itself was submitted by a person, who is aged about 54 years. May that it be, this Court is of the opinion that it is a case where there is an administrative delay on the part of the 3rd respondent and the writ petitioner is of the opinion that he was unnecessarily deprived on account of an administrative delay caused by the 3rd respondent.

6. Thus, this Court is inclined to direct the petitioner to submit the representation setting out all the facts and circumstances to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the 2nd respondent is directed to consider the representation on merits and in accordance with law and pass orders within a period of twelve weeks thereafter.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

kak

To

1. The Secretary,
Government of Tamil Nadu,
Home Department, Fort.St.George,
Chennai - 600 009.
2. The Additional Director General of Police,
State Crime Record Bureau,
No.95, Santhome High Road,
R.A.Puram, Chennai - 600 028.
3. The Superintendent of Police,
Trichy, Trichy District.

+1cc to Mr.K.Raja, Advocate, S.R.No.78718
+1cc to the Government Pleader, S.R.No.80105

W.P.No.19612 of 2013

DR

CA(22/11/2017)