



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2017

CORAM

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.179 of 2014

S.Pappa

... Petitioner

Vs.

1. The Director,
Agricultural Department,
Chennai.

2. The Joint Director,
Agricultural Department,
Tirunelveli-2.

... Respondents

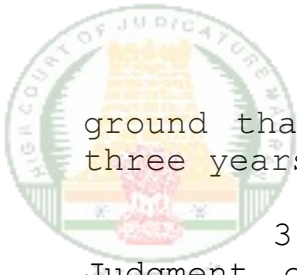
PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings dated 09.01.2013 in A3/4950/12 and quash the same as illegal and consequently direct the respondent to provide appointment to the petitioner's son namely Maharajan under the compassionate ground based on the petitioner's representation dated 27.12.2013.

For Petitioner : Mr.A.Thirukumaran
For Respondents : Mr.N.S.Karthikeyan
Additional Government Pleader

O R D E R

This Writ Petition has been filed against the order of the second respondent dated 09.01.2013 rejecting the application of the petitioner for compassionate appointment.

2. The facts of the case as disclosed in the affidavit filed in support of the Writ Petition reveals that the petitioner's husband died on 19.12.1993. However, an application came to be filed seeking compassionate appointment only on 25.10.2012. The application was filed seeking compassionate appointment to the petitioner's son. Though this application was rejected by proceedings, dated 09.01.2013, it was challenged in the present Writ Petition filed after a period of one year. The petitioner has not explained the delay and the application was rejected only on the



ground that the application is not maintainable after a period of three years from the date of death of Government Employee.

3. The learned Counsel for the respondent relied upon the Judgment of Hon'ble Supreme Court in the case of **Haryana State Electricity Board and another Vs. Hakim Singh** reported in (1997) 8 SCC 85, wherein it is held as follows:

"13. This Court has considered the scope of the aforesaid circulars in **Haryana SEB vs. Naresh Tanwar**. In that case the widow of a deceased employee made an application almost twelve years after the death of her husband requesting for accommodating her son in the employment of the Board, but it was rejected by the Board. When she moved the High Court the Board was directed to appoint him on compassionate grounds. This Court upset the said directions of the High Court following two earlier decisions rendered by this Court, one in **Umesh kumar Nagpal v. State of Haryana**, the other in **Jagdish Prasad v. State of Bihar**. In the former, a Bench of two Judges has pointed out that "the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for the post held by the deceased". In the latter decision, which also was rendered by a Bench of two Judges, it was observed that "the very object of appointment of a dependant of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family". The learned Judge pointed out that if the claim of the dependant which was preferred long after the death of the deceased employee is to be countenanced it would amount to another mode of recruitment of the dependant of the deceased government servant "which cannot be encouraged, de hors the recruitment rules".

4. Further, the learned counsel appearing for the respondent produced before this Court, the amendment introduced by the Government in the Tamil Nadu State and Subordinate Rules (Vol-1 of Tamil Nadu Service, 1997). As per the amendment, it is submitted that no appointment on compassionate ground can be made, unless the person who seeks compassionate appointment, has completed 18 years of age as on the date of submission of his application to the appropriate authority and which is also within a period of three years from the date of death of a Government Servant. This rule also gives an indication that the applicant, who is seeking compassionate appointment should be eligible within three years from the date of death of the Government Employee. For the present case, this court is not inclined to go into the validity or relevance of



amendment. It is sufficient to point out that the petitioner in this case, gave no explanation for the long delay of nearly 20 years in approaching authorities seeking compassionate appointment to the petitioner's son. As held by the Hon'ble Supreme Court, it is not a fit case in this Court having regard to the object, with which the appointment of compassionate ground is provided by the Government.

5. The learned Counsel for the petitioner submits that the third respondent, who passed the order, is not an appropriate authority to dispose of his application. Hence, he seeks liberty to the petitioner to approach the appropriate authority once again to convince him that he is entitled to get compassionate appointment. This Court is of the clear view that the petitioner is not entitled to get compassionate appointment. Such liberty cannot be given to the petitioner.

6. There is no merit in the Present Writ Petition. Hence, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

To

1. The Director,
Agricultural Department,
Chennai.

2. The Joint Director,
Agricultural Department,
Tirunelveli-2.

+ 1 CC TO Mr.T.SELVAN, ADVOCATE IN SR No. 59466

SM/TA

TE/JC/SAR-I : 30/06/2017 : 3P/4C

W.P. (MD) .No.179 of 2014
09.06.2017