



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

C O R A M

WEB COPY

THE HON'BLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.4110 of 2014
and M.P.(MD)No.1 of 2014

K.S.Khader Mohideen

...Petitioner

Vs.

1.The Labour Commissioner,
DMS Complex, Teynampet,
Chennai.

2.The Deputy Commissioner of Labour,
R.T.O.Complex, Dr.Balasundaram Road,
Coimbatore-641 018.

3.The Inspector of Labour,
R.T.O.Complex, Dr.Balasundaram Road,
Coimbatore-641 018.

...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 relating to the impugned order passed by the 1st respondent vide his proceedings in Na.Ka.No.G2/36122/2011 dated 15.09.2011 and consequential order passed by the 1st respondent in his proceedings Na.Ka.No.G2/22449/12 dated 01.10.2012 and consequential order passed by the 3rd respondent vide his proceedings in Na.Ka.No.Aa/7924/2012 dated 05.06.2013 and quash the same as arbitrary and consequently direct the respondents to appoint the petitioner in any one of the available post in the respondents office as suitable for the qualification of the petitioner within a time that may be stipulated by this Court.

For Petitioner

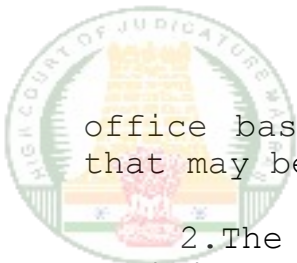
: Mr.M.S.Jeyakarthik

For Respondents

: Mr.V.Muruganantham, AGP

O R D E R

This writ petition has been filed by the petitioner to quash the impugned order dated 15.09.2011 in Na.Ka.No.G2/36122/2011 by the 1st respondent and consequential order dated 01.10.2012 in Na.Ka.No.G2/ 22449/12 passed by the 1st respondent and consequential order dated 05.06.2013 in Na.Ka.No.Aa/7924/2012 passed by the 3rd respondent and consequently, direct the respondents to appoint the petitioner in any one of the available post in the respondent's



office based on the qualification of the petitioner within a time that may be stipulated by this Court.

2.The learned counsel for the petitioner submitted that the petitioner's father viz., Mr.Sheik Mohideen worked as Junior Assistant in the 3rd respondent police. While he was in service he died on 05.04.1991. The petitioner, his mother and his three sisters are legal heirs of the said Mr.Sheik Mohideen. At the time his father's death, the petitioner was aged about only 5 years. Thereafter, his mother also died on 07.02.2001. At that time, the petitioner was studying 8th standard and he could not continue his studies further and he did not make any application, seeking a job on compassionate ground before the respondents. The petitioner, after attaining majority, on 08.09.2006, made an application to the 1st respondent, seeking appointment on compassionate ground. The respondent vide letter dated 08.09.2006 considered the same and forwarded to the Deputy Labour Commissioner, to consider his application and also asked the petitioner to submit a petition along with necessary documents and certificates. Thereafter, the petitioner sent a representation to the respondents and no favorable order has been passed by the respondents, he filed the present Writ petition.

3.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has not submitted his application within a period of three years from the date of death of his father. The appointment on compassionate ground would be given to a member of the family on the death of the breadwinner of that family only on the basis of the application made by the legal heirs of the deceased within time. Hence, he is not entitled to get any job on compassionate ground from the respondents.

4.In many number of judgments the Apex Court has held that an appointment on compassionate ground is to meet the sudden crisis occurring the family on account of the death or medical invalidation of the bread winner while in service.

5.It is seen that on 08.09.2006, the petitioner has given a representation for seeking appointment on compassionate ground and the respondents have not taken into these aspects and simply rejected, stating that he has not filed the said application within three years from the date of death of his father and which cannot be accepted by this Court. Since, the respondents have not considered the earlier representation given by the petitioner. Hence, the impugned orders dated 15.09.2011, 01.10.2012 passed by the first respondent and consequential order dated 05.06.2013 passed by the 3rd respondent are set aside and the petitioner's claim dated 16.08.2006 has to be considered by taking into account of the subsequent applications of the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Accordingly, the respondents are directed to consider the



case of the petitioner for providing appointment on compassionate ground and pass an order on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

7. The Writ petition is disposed of accordingly. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

1. The Labour Commissioner,
DMS Complex, Teynampet,
Chennai.

2. The Deputy Commissioner of Labour,
R.T.O. Complex, Dr. Balasundaram Road,
Coimbatore-641 018.

3. The Inspector of Labour,
R.T.O. Complex, Dr. Balasundaram Road,
Coimbatore-641 018.

+1cc to M/s. Special Government Pleader, SR.No.91114

+1cc to Mr. M.S. Jeyakarthik, Advocate, SR.No.91195

W.P. (MD) No. 4110 of 2014
05.12.2017

smi/das

KK/KK/13.04.2018/SAR-4/3P-6C