



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.476 of 2014

and

M.P(MD)No.1 of 2014

M.Vijayakumar

... Petitioner

vs.

1)The Director of School Education,
College Road,
Chennai - 600 006.

2) The District Educational Officer,
Sivagangai District,
Sivagangai.

3) The Headmistress,
Govt. Higher Secondary School,
Vembathur- 630 565,
Sivagangai District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd and 3rd Respondents in connection with the impugned order of rejection of compassionate appointment vide their impugned proceedings in Na.Ka.No.6862/A1/2001 dated 04.04.2013 and proceedings No.244/2007 dated 11.9.2007 respectively and quash the both and consequently direct the 1st and 2nd respondents to consider the petitioner's case for appointment in any suitable post based on his qualification under compassionate ground within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner

: Mr.G.Thalaimutharasu

For Respondents

: Mr.A.K.Baskarapandian

Special Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd and 3rd Respondents in connection with the impugned orders of rejection of compassionate appointment vide their impugned proceedings in Na.Ka.No.6862/A1/2001 dated 04.04.2013 and proceedings No.244/2007 dated 11.9.2007 respectively, and quash the both and consequently direct the 1st and 2nd respondents to

consider the petitioner's case for appointment in any suitable post based on his qualification under compassionate ground, within a time limit to be fixed by this Court.

2. It is the admitted case that the father of the petitioner died in the year 1993 and the mother of the petitioner is said to have sent an application for employment on compassionate grounds in 1994 and since she is an illiterate, the petitioner after attaining majority in 1998, applied for compassionate appointment in the year 2000 and that the said application has been rejected by the impugned order dated 04.04.2013, which is almost two decades from the date of demise of the petitioner's father. According to the petitioner, when the dependant of the deceased employee is a minor at the time of death of the employee, he is entitled to make an application on attaining the age of 18 years and the time limit of three years runs from the date on which he attained majority.

3. Even though the respondents 1 and 2 in their counter affidavit have not disputed the fact of employment of the petitioner's father and his death, submitted that the petitioner's mother, who was 30 years old on the date of demise of the petitioner's father on 27.12.1993, was employed as a Gardener. It is the contention of the respondents that the petitioner's mother had never made an application on 15.03.1994 and it has been incorporated only for the purpose of giving life to the litigation and not for any other purpose. It is submitted that the petitioner's mother has made an appeal on 10.01.2008 against the order of rejection dated 11.09.2007 wherein, she has categorically stated that due to ill-health and ignorance, she was not able to make any application, which clearly shows that the petitioner's mother had never made application as early as in 1994.

4. From the records, it appears that the application has been made only in the year 2000 by the petitioner and that there is an order of rejection by the authorities concerned which is impugned herein. Admittedly, there is a delay in seeking compassionate appointment and respondents have rightly rejected the request.

5. At this juncture, it is relevant to point out paragraph No.20 of a decision reported in (2011) 4 SCC 209, Bhawani Prasad Sonkar vs. Union of India and others, wherein the Hon'ble Apex Court has held as follows:-

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.



(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

6. In view of the above, I find no merit in this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1) The Director of School Education,
College Road,
Chennai - 600 006.

2) The District Educational Officer,
Sivagangai District,
Sivagangai.

3) The Headmistress,
Govt. Higher Secondary School,
Vembathur- 630 565,
Sivagangai District.

Nbi

ms/rr/me/23.01.2017/3p.4c

W.P. (MD) No.476 of 2014
04.01.2017