



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2017

Coram:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No. 22677 of 2015

WEB COPY

P.Rajkumar

...Petitioner

-Vs-

1. The Director of Block Development,
Panagal Buildings, Saithapettai,
Chennai.
2. The District Collector,
Thanjavur, (DT),
Thanjavur.
3. The Commissioner,
Thiruvidaimaruthur Village Panchayat Union,
Thiruvidaimaruthur,
Thanjavur. (DT)
4. The Block Development Officer,
Thiruvidaimaruthur,
Thanjavur. (DT)
5. The District Elementary Education Officer,
Thanjavur (DT)
Thanjavur.

...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, issue a writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 4th respondent in his proceedings Mu.Mu.No.3932/2012/A1, dated 05.10.2012 and quash the same and consequently direct the respondents 1 to 5 give the appointment to the petitioner on compassionate ground.

For Petitioner : Mr.G.Gomathi Sankar
For Respondents : Mr.N.S.Karthikeyan
Additional Government Pleader

ORDER

This writ petition is filed to quash the proceedings of the fourth respondent, dated 05.10.2012 and further to direct the respondents 1 to 5 to give appointment to the petitioner on compassionate ground.



2.The order impugned in the present writ petition is the order rejecting the petitioner's application seeking compassionate appointment.

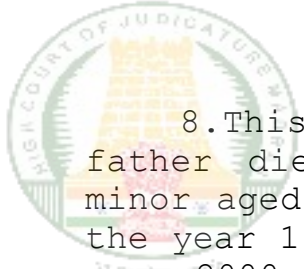
3.The petitioner states that his father was working as a Teacher with the third respondent school and that he died on 08.03.1978 in the course of employment. The petitioner further states that he was a minor aged about six years at the time of his father's death and that he could not file an application till 2000 due to the fact that his mother could not do any work on account of her illness. It is stated that the petitioner was taking care of his mother and that he could not give a representation till 2000 as he was fully engaged in taking care of his mother.

4.It is admitted that the petitioner submitted his first application/representation only on 27.04.2000. He has produced a no objection letter from his mother, dated 23.10.2000 and a similar letter obtained from the petitioner's sister on the same day. On 23.10.2000, the petitioner also renewed his application in the prescribed format. The petitioner's application was forwarded to the District Collector by the third respondent on 20.06.2001.

5.The second respondent also forwarded the application to the first respondent on 12.07.2000. It was, thereafter, the petitioner approached the respondents 2 and 3 for an early consideration of his application for appointment on compassionate ground. However, the fourth respondent by the impugned order, dated 05.10.2012 returned the application on the ground that the application is not filed within three years from the date of death of petitioner's father, who died while in service.

6.The learned counsel for the petitioner submitted that the respondents 2 and 3 have recommended for considering the application in favour of the petitioner and that the fourth respondent, however has rejected the petitioner's claim without considering the same on merits. It is further submitted by the learned counsel for the petitioner that the petitioner has submitted a representation before the Government. However, in the meanwhile, the fourth respondent passed the impugned order, which is not proper.

7.The learned counsel for the petitioner further submitted that the petitioner's mother and sister have given no objection letter relinquishing their legal rights to get the job to the petitioner on compassionate grounds. In such circumstances, the rejection/return of the application by the fourth respondent, without considering the family circumstances of the petitioner, is



8. This is a case where it is admitted that the petitioner's father died on 08.03.1978. Assuming that the petitioner was a minor aged about 6 years in the year 1978 he attained majority in the year 1990. However, the first application was made only in the year 2000. The petitioner's only explanation is that he was fully engaged in attending his mother and that therefore, he could not move out. Such an explanation can never be accepted in whatever be the context. It has been repeatedly held that the appointment of compassionate ground is not an alternative source of employment or recruitment and that it is only an exception to the general rule. Unless the petitioner is entitled to get an appointment in terms of the rules, there cannot be any misplaced sympathy to provide appointment to the petitioner on compassionate ground.

9. The learned Additional Government Pleader relied upon the Judgment of Hon'ble Supreme Court in the case of **Haryana State Electricity Board V. Hakim Singh, reported in (1997) 8 SCC 85**, wherein it has been held as follows:-

" 12. We are of the view that the High Court has erred in overstretching the scope of the compassionate relief provided by the Board in the circulars as above. It appears that the High Court would have treated the provision as a lien created by the Board for a dependant of the deceased employee. If the family members of the deceased employee can manage for fourteen years after his death one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance. The object of the provisions should not be forgotten that it is to give succour to the family to tide over the sudden financial crisis befallen the dependants on account of untimely demise of its sole earning member.

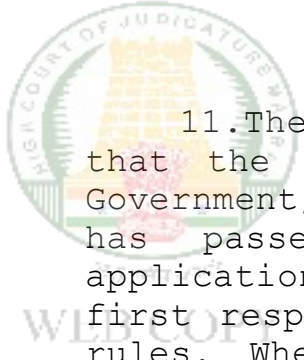
13. This Court has considered the scope of the aforesaid circulars in *Haryana SEB V. Naresh Tanwar* ((1996) 8 SCC 23: 1996 SCC (L&S) 816: JT (1996) 2 SC 542). In that case the widow of a deceased employee made an application almost twelve years after the death of her husband requesting for accommodating 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* ((1994) 4 SCC 138: 1994 SCC (L&S) 930: (1994) 27 STC 537, the other in *Jagdish Prasad V. State of Bihar* ((1996) 1 SCC 301: 1996 SCC (L&S) 303: (1996) 32 ATC 238. 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 later 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.' "

10. Further, the learned Additional Government Pleader relied upon a Judgment of Hon'ble Supreme Court, in the case of ***State of U.P. V. Paras Nath, reported in (1998) 2 SCC 412***, wherein, it is extracted as follows:-

"5. The purpose of providing employment to a dependant of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased Government servant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present



11. The learned counsel for the petitioner further submitted that the petitioner's application was being considered by the Government, the first respondent. However, the fourth respondent has passed the impugned order rejecting the petitioner's application, which is improper. Either the Government or the first respondent can not give appointment without following the rules. When the petitioner's application is beyond the period prescribed and there is no explanation acceptable to any prudent man for the inordinate delay of more than 20 years, the petitioner cannot legitimately expect any favorable order either from the Government or from the first respondent.

12. In such circumstances, this Court find no merits in this writ petition and hence, the writ petition is dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar (Crl Side)

/True Copy/

Sub Assistant Registrar

To

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Thanjavur.

+1cc to Spl. Government Pleader Sr.No.60589
DAS/AM
VB/MR/KKR/SAR4/06.07.2017/5P/7C