



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

W.P (MD) No. 9312 of 2017

and

WMP (MD) No. 7091 of 2017

C.M.Gowshigan

... Petitioner

vs.

1.The Director,
Directorate of Public Libraries,
737/1, Anna Salai,
Chennai.

2.The District Library Office,
District Library Office,
Madurai District,
Simmakkal,
Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.9409/A4/2016 dated 27.04.2017 passed by the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to provide suitable employment to the petitioner on compassionate ground within stipulated time.

For Petitioner	: Mr.C.Arul Vadivel @ Sekar
For Respondent	: Mr.D.Muruganantham Additional Government Pleader

O R D E R

The present writ petition is directed against the impugned order dated 27.04.2017, in and by which, the request of the petitioner for providing compassionate appointment was rejected, on the ground that the petitioner was aged about 11 years on the date of making the application seeking employment on compassionate ground and that he has also not possessed the requisite qualification.

2.Assailing the impugned order, the learned counsel for the petitioner would submit that the father of the petitioner, Late.Meenakshisundaram, while serving as Record Clerk in the District Central Library, Madurai, died on 20.09.2006, leaving behind his wife M.Panchavarnam, daughter C.M.Malarjothi and the petitioner as legal heirs. At the time of death of his father, the petitioner was aged about 10 years and his elder sister aged



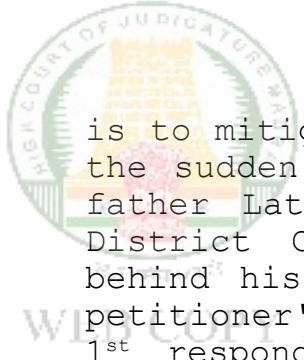
about 11 years.

3. Due to the sudden demise of the breadwinner, the family was in indigent circumstances and the wife of the deceased Government servant namely, mother of the petitioner, was taking care of the family with great difficulties, hence, she made a representation on 27.06.2007, to the 1st respondent through the 2nd respondent seeking compassionate appointment to the petitioner. Although during that time, the petitioner was minor and studying 7th Standard, the 2nd respondent/District Library Officer, Madurai, has forwarded the request of the petitioner's mother vide communication in Na.Ka.No.5432/A/2006, dated 04.07.2007, to the 1st respondent, for appropriate action. Thereafter, the matter was kept pending consideration of the 1st respondent, by that time, the petitioner completed B.Sc., (Bio-Chemistry) in May 2016. After completing the said educational qualification and also after attaining majority, the petitioner made an application on 12.10.2011, to the respondents seeking employment on compassionate ground with all relevant certificates, including the certificate revealing the indigent circumstances of the family. He also made another application dated 11.08.2016 seeking compassionate appointment. While so, the 2nd respondent passed the impugned order dated 27.04.2017, rejecting the request of the petitioner for employment on compassionate ground as though even on the date of rejecting the request of the petitioner, the petitioner was a minor and not possessed the required educational qualification, which is completely reflecting non application of mind of the part of the respondents.

4. Adding further, it is submitted that the approach adopted by the respondents is completely running contrary to the ratio laid down by the Division Bench of this Court in WA(MD)No.1238 of 2016 dated 07.02.2017 (The Director of School Education, Chennai and two others vs. T.Rajamani) which says that if any application is made seeking compassionate appointment within three years from the date of death of the Government servant and during that time, if the applicant seeking compassionate appointment is minor and also not possessed the requisite qualification, at least, on the date of final consideration of the claim, the respondents should have seen whether the applicant has fulfilled the required age and the educational qualification for employment on compassionate ground. In the light of the above ratio, the impugned order passed by the respondents, he pleaded, is liable to be set aside.

5. The learned Additional Government Pleader appearing for the respondents sought time to get instructions, stating that every now and then, the Government is also passing orders considering the similar requests seeking compassionate appointment.

6. But, this Court is not able to find any justification to support the reasons given in the impugned order or to grant any more adjournment. The reason is, the law regarding compassionate appointment is well settled. The object of compassionate appointment



is to mitigate the financial constraints faced by the family due to the sudden demise of the Government Servant. When the petitioner's father Late.Meenakshisundaram while serving as a Record Clerk at District Central Library, Madurai, died on 20.09.2006, leaving behind his wife, daughter and the petitioner as legal heirs, the petitioner's mother has made a representation on 27.06.2007 to the 1st respondent through the 2nd respondent, requesting to provide compassionate appointment to the petitioner. On receipt of the said representation, the 2nd respondent also forwarded the same to the 1st respondent, accepting the case of the petitioner that the family of the deceased Government servant is in indigent circumstances. No doubt, the petitioner was 10 years old at the time of death of his father. However, before passing of the impugned order, the petitioner attained majority and also acquired B.Sc., (Bio-Chemistry) in May 2016, therefore, it is clear that on the date of impugned order, the petitioner was eligible to be considered for compassionate appointment on both counts namely, age and educational qualification.

7.At this juncture, it is relevant to extract below paragraphs 3 and 4 of the Division Bench judgment relied on by the petitioner in WA(MD)No.1238 of 2016 dated 07.02.2017(The Director of School Education, Chennai and two others vs. T.Rajamani).

'3. The learned Single Judge, by order dated 07.03.2016, has allowed the Writ Petition stating that the only criteria that has to be considered while considering the case for compassionate appointment is that an application filed by the dependent of the deceased Government servant ought to have been made within three years from the date of death of the deceased Government servant. In the instant case, admittedly, application was made within three years by the respondent, who was minor on that date. However, on the date of passing of the impugned order, he has attained majority and hence, there is no impediment for the authorities to give an appointment on compassionate ground to the respondent. Challenging the same, the present Writ Appeal has been filed.

4. We have heard the learned counsel on either side and perused the materials available on record including the order passed by the learned Single Judge.'

8.In the light of the above, this Court is of the view that the impugned order rejecting the request of the petitioner, ignoring the fact that the petitioner on the date of consideration of the application, had possessed the required age and educational qualification, is liable to be set aside, and accordingly, the same are set aside. The respondents are directed to appoint the petitioner on compassionate ground commensurate to his educational qualification within a period of three months from the date of



In fine, the Writ Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

WEB COPY

/True Copy/

Sd/-
Assistant Registrar(Writ)

Sub Assistant Registrar

To

1.The Director,
Directorate of Public Libraries,
737/1, Anna Salai,
Chennai.

2.The District Library Office,
District Library Office,
Madurai District,
Simmakkal,
Madurai.

+1cc to M/s. C.ARUL VADIVEL @ SEKAR Advocate in SR. No.63433
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.63508

DSS
JS/SV/SAR.1/17.7.2017/4P-5C

W.P (MD) No.9312 of 2017
04.07.2017