



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.3807 of 2016

and

W.M.P (MD) Nos.3423 & 3424 of 2016

G.Suresh Babu

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Public Works Department,
Secretariat, Fort St. George,
Chennai - 600009.

2.The Principal Chief Engineer (WRO) /
Chief Engineer (Gen),
Public Works Department,
Chepauk,
Chennai - 600005.

3.The Superintendent Engineer PWD WRO,
Ground Water Circle,
Madurai -2.

4.The Executive Engineer,
Water Resource Organization (PWD),
Ground Water Division,
Tirunelveli.

... Respondents

PRAYER:Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the fourth respondent in Letter No.T2/1048/2014, dated 22.08.2014 and quash the same and consequently direct the respondents to provide compassionate appointment to the petitioner as per the application submitted by him within a time frame to be fixed by this Court.

For Petitioner

For Respondents

: Mr.G.Sankaran

: Mr.A.K.Baskarapandian

Special Government Pleader



ORDER

The petitioner has come forward to file this Writ Petition to quash the order passed by the fourth respondent in Letter No.T2/1048/2014, dated 22.08.2014 and consequently to direct the respondents to provide compassionate appointment to the petitioner as per the application submitted by him, within a stipulated time.

2. It is the admitted case of the petitioner that when his father passed away on 19.10.1998 leaving behind the petitioner's mother and children, his mother has filed an application on 30.03.1999 seeking compassionate appointment, on behalf of his sister G.Ananthi. Pending consideration of the said application, his sister got married in the year 2006 and in the very same year, he made an application to the respondents on 06.06.2006 and the other legal heirs have no objection for the petitioner getting employment on compassionate ground. But, the request of the petitioner was rejected by the respondents stating that the application is belated and that it is not the continuation of earlier application and the same should be treated as fresh application and that it is time-barred. It is the case of the petitioner that his date of birth is 03.02.1987 and he attained the age of eighteen in the year 2005 and made the application within a period of three years and hence his request should be considered.

3. In response, the learned Special Government Pleader appearing for the respondents would submit that the mother of the petitioner applied for compassionate appointment for her daughter as early as on 30.03.1999 and admittedly, her daughter was major at the time of making application and her date of birth was 09.02.1977. Even though such a plea is not taken in the counter, they have verbally contested so and thus, she attained the age of eighteen years in the year 1996 and she made an application, of course, within a period of five months from date of demise of the petitioner's father. However, the mother has made an application only for the sister of the petitioner and not for the petitioner. According to the respondents, the request for compassionate appointment was rejected as early as in the year 2010 and copy of the proceedings have been forwarded to the individual and after the rejection, hiding the same, another application has been made by the petitioner on 23.07.2014 stating that no action has been taken on his application, dated 27.01.2006, which was also rejected on 22.08.2014. It is stated that the petitioner's sister got married on 11.12.2005 and the petitioner attained the age of eighteen only in the year 2006 and the application has been made after he became major. The petitioner has also filed one other writ petition before this Court in W.P(MD) No.14254 of 2014 and this Court has dismissed the same on 10.02.2016 and hence, the fourth respondent has rightly

rejected the request of the petitioner.

4. From the records, it appears that the application has been made by the petitioner only in the year 2006 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 laid down certain conditions for making compassionate appointment 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. The petitioner has not fulfilled any of the conditions mentioned supra and that already the request of the petitioner was rejected not for once, but twice and the earlier writ petition was also dismissed by this Court.

7. In view of the above, I find no merit in this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)



To

1. The Secretary to Government,
State of Tamil Nadu, Public Works Department,
Secretariat, Fort St. George, Chennai - 600009.

2. The Principal Chief Engineer (WRO) /
Chief Engineer (Gen), Public Works Department, Chepauk,
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3. The Superintendent Engineer PWD Water Resource Organization,
Ground Water Circle, Madurai -2.

4. The Executive Engineer,
Water Resource Organization (PWD),
Ground Water Division,
Tirunelveli.

+1 cc to Mr. T.CHANDRA SEKARAN, Advocate, Sr.No:1617

+1cc to M/S Special Government Pleader, Sr No.1507

pm

MAS/PM-JN:30.01.2017:4P/7C

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