



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.5727 of 2016

and

W.M.P. (MD) No.5152 of 2016

M.Marimuthu

... Petitioner

Vs.

1. The State of Tamilnadu,
Represented by its Secretary to Government,
Local Administration Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2. The State of Tamilnadu,
Represented by its Secretary to Government,
Labour and Employment Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

3. The Commissioner,
Madurai Corporation,
Aringnar Anna Maligai,
Tallakulam,
Madurai-625 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned letter issued by the 3rd respondent herein in Ma.Ni. II (Ma.2 Na.4)/11836/2012 dated 30.04.2014 and quash the same and consequently to direct the respondents herein to appoint the petitioner on compassionate ground in any of the posts to which he is suitable.

For Petitioner	: Mr.A.Saravanan
For R1 and R2	: Mr.N.S.Karthikeyan, Additional Government Pleader.
For R3	: Mr.R.Murali

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned letter issued by the third respondent herein dated 30.04.2014 and quash the same and consequently to direct the respondents herein to appoint the petitioner on compassionate ground in any of the posts to which he is suitable.



2. The petitioner's father was working as a Scavenger in the third respondent corporation. While he was in service, he died on 02.10.1988. The petitioner states that he was only eight years at the time of his father's death and that therefore only on 17.04.1998, the petitioner could request the third respondent to provide any suitable job to the petitioner on compassionate ground. Since the petitioner's mother and his sister have given an affidavit of undertaking that they have no objection for providing appointment to the petitioner, the petitioner states that he is eligible to be appointed on compassionate ground.

3. The facts on record disclose that the petitioner's father died, while he was in service on 02.10.1988. Though an application was stated to have been filed on 17.04.1998, there is no reference about the application that was filed in the year 1998 in any of the communications. The petitioner himself admitted that he approached the respondent only in the year 2001 in one of his representations dated 27.11.2008.

4. The third respondent filed a detailed counter affidavit specifically denying the contention of the petitioner that an application was filed in the year 1998. Further materials produced before this Court, clearly reveal that the petitioner filed the application only in the year 2006. Since the petitioner became major, even in the year 1998 the application which was filed first time in 2006, was well beyond the period of three years and the petitioner is not entitled to get compassionate appointment.

5. For the simple reason that the petitioner has not submitted the application within time that was stipulated for providing employment, the request of petitioner can not be considered. The Honourable Supreme Court has categorically held that appointment on compassionate ground is not an alternative source of recruitment and that the same can be provided only if a person satisfies the rules and regulations governing compassionate appointment. It is also held by the Honourable Supreme Court that an appointment on compassionate ground cannot be made de hors the rules purely on sympathy.

6. In view of the settled position of law in these cases, this Court is not inclined to entertain the Writ Petition and hence this Writ Petition is dismissed as devoid of any merits. No costs. Consequently the connected W.M.P. (MD) No.5152 of 2016 is closed.

Sd/-

Assistant Registrar (CS-I)



To

1. The Secretary to Government,
The State of Tamilnadu,
Local Administration Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2. The Secretary to Government,
The State of Tamilnadu,
Labour and Employment Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

3. The Commissioner,
Madurai Corporation,
Aringnar Anna Maligai,
Tallakulam,
Madurai-625 002.

+1 CC to M/s.R.MURALI, Advocate, SR No. 61252.

+1 CC to M/s.A.SARAVANAN, Advocate, SR No. 61083

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 61617

MM/CMR

PSM/KP/SAR2/10.07.2017/3P/7C

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