



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.5048 of 2011

K.Arun Prakash

...Petitioner

Vs.

1. The Director of Public Health and Preventive Medicine
Office of the Director of Public Health and Preventive
Medicine,
DMS Compound, Thenampettai, Chennai-600 006.

2. The Deputy Director of Health Services,
Office of the Deputy Director of Health Services,
Viswanathapuram, Madurai-625 014. ...Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of impugned order issued by the first respondent in his proceedings R.No.808/E4/2007/S3, dated 18.06.2008 and the consequential proceedings in R.No.808/E4/2007/S3, dated 26.12.2008 issued by the first respondent and quash the same further direct the first respondent to provide employment to the petitioner on compassionate ground by considering his educational qualification.

For Appellant : Mr.S.M.Mohan Gandhi

For Respondents : Mr.V.Muruganantham

Additional Government Pleader

O R D E R

This Writ petition has been filed for issuing a Writ of Certiorarified Mandamus, to call for the records of impugned order issued by the first respondent in his proceedings R.No.808/E4/2007/S3, dated 18.06.2008 and the consequential proceedings in R.No.808/E4/2007/S3, dated 26.12.2008 issued by the first respondent and quash the same and further direct the first respondent to provide employment to the petitioner on compassionate ground by considering his educational qualification.

2.The facts of the case is that the petitioner's father, who was working as a Special Grade Multipurpose Health Assistant in



Government Primary Health Centre at Kottampatti, died on 08.05.1993. At the time of his death, the petitioner was nine years old. Hence, the mother of the petitioner had applied for an appointment on compassionate ground on 31.08.1995, and the same is pending before the authorities for the past several years. Again, the petitioner's mother made a representation on 10.08.2003 to the second respondent for same relief. The same was also kept pending by the respondents and no orders were passed. Meanwhile, since there was a ban for appointment in the year 2001 to 2006 the said application was rejected. Hence the petitioner subsequently applied after the ban was lifted. The petitioner made a representation dated 06.03.2006 to the first respondent requesting him to provide a suitable job on compassionate ground by producing relevant documents. The second respondent forwarded the petitioner's application to the first respondent by proceedings dated 17.10.2006 and 21.12.2006. Based on the same, the first respondent directed the second respondent to produce the petitioner's representation dated 20.12.1998 through his proceedings dated 26.03.2007 and the first respondent directed the second respondent to report the action taken by him on the petitioner's application by his proceedings dated 22.09.2007. No steps were taken by the respondents to provide a suitable job to him. Instead the first respondent rejected the petitioner's application. Again, the petitioner sent another representation dated 27.08.2008 but the same was rejected stating reconsideration does not arise as per the existing Government rules in force through his proceedings dated 26.12.2008, which is as follows:

"with reference to the letter fourth cited, the Deputy Director of Health Services, Madurai is informed that the request of the applicant Thiru.K.ArunPrakash S/o.(late) Thiru.M.Kathiresan has already been examined by this office in detail and negatived in this office reference third cited on the ground that the application for appointment on compassionate grounds has not been received from the individual within three years from the date of death of the Government Servant as per the existing Government rules. As such the question of reconsideration for employment existence on compassionate grounds as requested by the applicant in his representation dated 27.08.2008 does not arise as per the existing Government rules in force."

3.The learned Government Pleader filed a counter stating that the petitioner has requested that he may be provided with employment assistance as Junior Assistant on compassionate ground after 13 years from the date of death of the Government servant. he has passed S.S.L.C examination during the year March 1999 and passed HSC during the year March 2002. He would further submit



that as per the existing Government orders and instructions issued in Government Letter (Ms.)No.202, Labour and Employment Department, dated 08.10.2007, the application for appointment on compassionate grounds should be made within three years from the date of death of the Government Servant and the appointment scheme is only to help the family of the deceased Government Servant. So the appointment should, therefore, be provided immediately to redeem the family in distress and the provision of compassionate appointment after a lapse of very long time defeats the very purpose of compassionate ground appointment scheme.

4.It is seen from the records that the mother of the petitioner has made representation on 31.08.1995 which is not beyond limitation as per the Government order in G.O.Ms.No.120 dated 26.06.1995 and her application was not considered. The petitioner was a minor at the time of his father death which has to be taken into account and when no order passed regarding his mother application it gives a continuous cause of action. Hence, the rejection order of the petitioner's representation on the ground of period of limitation is not correct.

5.Accordingly, this Court directs the first respondent to consider the case of the petitioner and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with above direction. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Public Health and Preventive Medicine
Office of the Director of Public Health and Preventive
Medicine,
DMS Compound, Thenampettai, Chennai-600 006.
2. The Deputy Director of Health Services,
Office of the Deputy Director of Health Services,
Viswanathapuram, Madurai-625 014.

+1cc to Mr.S.M.Mohan Gandhi, Advocate SR.No.91222

+1cc to The Spl. Government Pleader Sr.No.91115

PSD

VB/SV/MMS/SAR1/12.04.2018/3P/5C