



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

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THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P. (MD) No.5111 of 2011

Suriyaprakash

...Petitioner

Vs.

The Assistant Director,
District Land Survey Department,
O/o.District Collector,
Dindigul.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the respondent made in Na.Ka.A1/368/10(1) dated 24.03.2011 and quash the same and consequently direct the respondent to provide employment to the petitioner under compassionate ground.

For Petitioner
For Respondent

:Mr.M.Suresh Kumar
:Mr.V.Muruganantham
Additional Government Pleader

O R D E R

This Writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the respondent made in Na.Ka.A1/368/10(1) dated 24.03.2011 and to quash the same and consequently direct the respondent to provide employment to the petitioner on compassionate ground.

2.The learned counsel for the petitioner would submit that the father of the petitioner was employed in the Land Survey Department at Dindigul District and he died on 05.10.2004 at the age of 47 years while he was in service. The entire family depending on him due to the said death, was left without any support and after that the petitioner completed his Higher Secondary Education in the year 2008 with great difficulties. After the demise of his father, his mother made a petition dated 27.02.2006, seeking employment on compassionate ground and at the



time, there was a ban for appointment and later on, the Government lifted the ban for appointment.

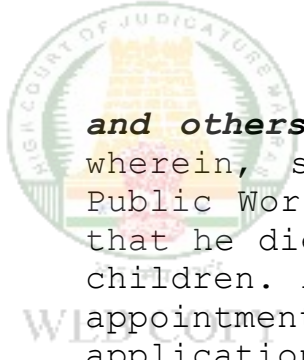
3. The writ petitioner made a representation to the respondent seeking employment for him on compassionate ground appointment along with all necessary documents including the legal heirs certificate. The petitioner requested the respondent to consider his representation and the respondent has orally informed that he would consider his representation as per seniority. But, on 24.03.2011, his request was rejected by the respondent, stating that at the time of his submitting the application during the year 2006, he had not completed 18 years and they have failed to consider that on the date of impugned order passed, he had already completed 20 years of age and the petitioner being left with no other effective alternative remedy, has approached this Court by filing this writ petition.

4. At the time of the death of his father, he was a minor, but he submitted the application within a period of three years i.e. on 01.11.2006 and the respondent rejected the said application after a period of 5 years, stating that he did not complete 18 years at the time submitting his application and he sought, to direct the respondent to consider the claim seeking for employment on compassionate ground.

5. The respondent filed a counter wherein, stated that the application for the appointment on compassionate ground should have been made within 3 years from the date of his father's death and also he should have completed the age of 18 years as on 23.08.2005 and should possess the minimum educational qualification of 10th standard. In this case, the petitioner did not possess the minimum educational qualification at the time of application and also was not having the minimum age limit. Hence, his request was rejected by the respondent in Roc.No.A.1/368/10(1) on 24.03.2011.

6. The learned counsel for the respondent would submit that they would consider the application of the petitioner with a latest instructions of the Government. Even though the application for compassionate appointment was made within the crucial date i.e., within 3 years from the date of death of the Government Servant and the petitioner should have possessed the eligibility criteria regarding educational qualification and also the age limit, but the same were not, fulfilled on the date of application of the petitioner. Hence, the said request was rejected correctly.

7. The learned counsel for the petitioner would submit that the <https://hcsera.cemts.gov.in/hcs/Prdcs/> is a public website of the Hon'ble Supreme Court in the case of **K.G. Balakrishnan and Tarun Chatterjee, JJ. Syed Khadim Hussain Vs. State of Bihar**



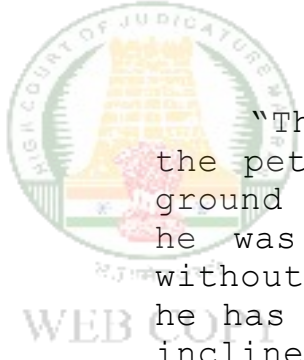
and others reported in **2006 9 SCC 195; 2005 0 Supreme (SC) 38;** wherein, stated that the father was working as a Peon in the Public Works Department of the Government of Bihar. It is stated that he died on 12.09.1991 leaving behind the widow and five minor children. After his death the mother submitted an application for appointment on compassionate ground on 02.04.1993. The said application was within time but it was rejected on the reason that it was not in the prescribed proforma and at that time of his father death the appellant was 9 years old. Hence, he submitted an application on 07.09.1995, this was also rejected on the ground that the appellant at the time of filing the application was aged only 13 years and 3 months and 23 days old. Hence, he could not be considered for the Government Service.

8.The Single Judge as well as the Division Bench rejected the same on the ground that the application was belatedly submitted and it should have been filed within five years from the date of death of the employee and that was challenged by way of an appeal.

9.The Hon'ble Supreme Court has considered the case and stated that the widow had applied for appointment within the prescribed period and without assigning any reason the same was rejected. The appellant submitted an application when he was 13 years old and the application was also rejected after the period of 6 years and the reason given by the authorities was incorrect, at the time of rejection of the application he must have crossed 18 years and he could have very well been considered for appointment. Since there is no specific provision in the State as to what should be done in case the dependents are minors and there would be any relaxation of age in case they did not attain majority within the prescribed period of application.

10.The Hon'ble Supreme Court had directed the respondent authorities to consider the application of the appellant and give him appropriate appointment within a reasonable time at least within a period of three months and the appeal has been disposed of in the above terms.

11.The same is applicable here also. This Court also finds that the petitioner's father died on 05.10.2004. thereafter, the petitioner submitted a representation to the respondent seeking employment for him on compassionate ground and the same was not considered in the year 2011 on the ground that the petitioner had not completed the age of 18 years at the time of submitting application and the respondent failed to consider that on the date of rejection of the petitioner's application, the petitioner had completed the age of 20 years. In view of the above, this writ petition is allowed and following direction is issued:



"The respondent is directed to consider the case of the petitioner seeking appointment sympathetically, on the ground that he had already submitted his application while he was a minor and the same was rejected mechanically without taking into account that at the time of rejection he has crossed the age of 18 years. Hence, this Court is inclined to direct the respondent to consider the case of the petitioner and pass appropriate orders afresh if the petitioner is otherwise eligible, as per law within a period of three months from the date of receipt of a copy of this order." No Costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Assistant Director,
District Land Survey Department,
O/o.District Collector,
Dindigul.

+1cc to Mr.M.Suresh Kumar, Advocate Sr.No.92425
+1cc to Spl.Government Pleader Sr.No.92488

MM

VB/SV/MMS/SAR4/09/01/2018/4P/4C

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12.12.2017