

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM :

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.2355 of 2011

V. Nandhagopal

..Petitioner

Vs.

1.The State

Rep. By The Chief Secretary
to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort- St George,
Secretariat,
Chennai 600009.

2. The District Collector
Collectorate Office
Chennai.

3. The Directorate of Medical
Education, Kilpauk
Chennai-10

4. The Director and Superintendent
Institute of Child Health &
Hospital for Children
Chennai.

..Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent order bearing Na.Ka. No.9829/NE3/2006-2 dated 06.12.2008 and quash the same, consequential order and further direct the 4th respondents to consider the petitioner application and to appoint the suitable post on the ground of compassionate ground within the stipulated period of time and pass such further orders.

For Petitioner : Mr. J. Chandrasekar
For Respondents : Mr. A. Zakir Hussain
Government Advocate

O R D E R

This Writ Petition is filed to quash the order of the 1st respondent in Na.Ka. No.9829/NE3/2006-2 dated 06.12.2008 and the consequential order and further direct the 4th respondent to consider the petitioner's application and to appoint him in a suitable post on compassionate ground, within the stipulated period of time.

2. The learned counsel for the petitioner would submit that the petitioner's mother Tmt.Kannammal Veeraraghavan, who was working as a Nursing Superintendent Grade-II, Institute of Child Health & Hospital for Children, Egmore, Chennai, died on 03.05.1996, while she was in service. The petitioner applied for the post of Junior Assistant on compassionate grounds by his letter dated 09.05.1997, within the period of limitation. The said application was rejected on the ground that the petitioner was over-aged, as per the Government order in G.O. Ms.NO.1579 Labour and Employment Department dated 21.07.1981. According to the learned counsel for the petitioner, in a similar case the Government has granted relaxation of age, under Rule 28 of the Special Rule for TNM service, vide Proceedings No.76125/AB1/95 HSFV (AB1) dated 23.04.1996. Hence, the petitioner seeks a similar relief, by granting relaxation for the said appointment.

3. The first respondent has filed a detailed counter affidavit by stating that as per the Government order in G.O.Ms.NO.1579 Labour and Employment Department dated 21.07.1981, the petitioner's application for appointment on compassionate ground has been rejected, stating the reason that the petitioner is over aged. Subsequently, the Government in its order in G.O. Ms.No. 9 Labour and Employment Department dated 19.01.1998, has increased the age limit from 30 years to 35 years. But, the said Government order is not applicable to the petitioner, as his mother, the deceased Government servant, died before 19.01.1998. However, the petitioner's request was forwarded to the 1st respondent for relaxation of age, under the Rule, in favour of the petitioner and the said application was rejected on 10.11.2008.

4. Heard the parties and perused the material available on record.

5. The purpose of providing appointment to the legal heirs of the deceased Government servants under the compassionate appointment scheme is only to help the family members, facing indigent circumstances caused due to the sudden death of the deceased and to redeem the family circumstances. Whilesso, seeking for appointment after a lapse of long years, need not be considered under the scheme.

6. In the recent decision rendered by the Madurai Bench of this Court in W.P. (MD) No.4808 of 2014 dated 22.02.2018 [MANU/TN/1113/2018], it has been considered elaborately the purpose of granting appointment under compassionate scheme. In this case, when the Government has considered the petitioner's application and the same has been rejected on reasonable grounds, the petitioner cannot seek any relief from this Court for rejecting his appointment on compassionate ground.

7. Therefore, there is no merit in the writ petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Secretary
to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort- St George,
Secretariat,
Chennai 600009.
2. The District Collector
Collectorate Office
Chennai.
3. The Directorate of Medical
Education, Kilpauk
Chennai-10
4. The Director and Superintendent
Institute of Child Health &
Hospital for Children
Chennai.

+1 CC TO GOVERNMENT PLEADER SR.NO. 78310

W.P.No.2355 of 2011

ASK(20/12/2018)