

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.534 of 2017

T.R.Nagarajan

... Appellant

versus

- 1.The District Collector,
Krishnagiri District, Krishnagiri.
- 2.The Revenue Divisional Officer,
Krishnagiri.
- 3.The Tahsildar,
Pochampalli, Krishnagiri District.
- 4.State of Tamil Nadu,
rep. by The Secretary to Government,
Revenue Administration,
Fort St. George, Chennai - 600 009.
- 5.State of Tamil Nadu,
Rep. by The Secretary to Government,
Personnel & Administrative Reforms Department,
Fort St. George, Chennai - 600 009.

[Respondents 4 and 5
impleaded as party respondent
vide order of this Court
dated 05.04.2018 made in
C.M.P.No.676 of 2018]

... Respondents

Appeal filed against the order passed by this Court dated 19.10.2016 made in W.P.No.29338 of 2014. Writ Petition filed under Article 226 of the constitution of India praying for issuance of writ of certiorari filed Mandamus to call for the records relating to the impugned order dated 29.10.2014 passed in Na.Ka.No.26843/2010/A3 on the file of the 1st respondent quash the same and consequently direct the 1st respondent to provide an appointment to the petitioner on compassionate grounds with all attended benefits

For Appellant : Mr.Nithiyanandam
for Mr.Govi Ganesan

For Respondents : Mr.V.Anandhamoorthy
Additional Government Pleader

J U D G M E N T
(Order of the Court made by R.SUBRAMANIAN, J.)

The challenge in this intra-Court appeal is to the order of the learned Single Judge dated 19.10.2016 made in W.P.No.29338 of 2014. The Writ Petition was filed by the appellant challenging the order of the 1st respondent, wherein, the claim of the appellant seeking compassionate appointment was rejected on the ground that he was over aged.

2. The father of the appellant who was employed as a Village Assistant in Nagojana halli Villlage, Pochampalli Taluk at Krishnagiri District died while in service on 24.04.2010 leaving behind the appellant herein and his brother as his legal heirs. Claiming that the family is in indigent circumstance the petitioner/ appellant had made a representation to the 1st respondent on 14.06.2010 seeking an appointment on compassionate ground. The said representation of the petitioner was recommended by the 2nd respondent on 04.08.2010. However, the 1st respondent rejected the claim of the appellant on 29.10.2014 on the ground that he was over aged. The appellant had challenged the said proceedings of the 1st respondent dated 29.10.2014 in the Writ Petition.

3. The learned Single Judge by his order dated 19.10.2016 dismissed the Writ Petition on the ground that admittedly the petitioner was over aged on the date of his application itself and hence, the rejection of his application by the 1st respondent was justified. Aggrieved the appellant has come forward with this intra-Court appeal.

4. We have heard Mr.Nithyanandam, learned counsel appearing for Mr.K.Govi Ganesan for the appellant and Mr.V.Anandhamoorthy, learned Additional Government Pleader for the respondents.

5. Mr.Nithyanandam, learned counsel appearing for the appellant would draw our attention to the Government order in G.O.Ms.No.155 dated 16.07.1993, wherein, certain guidelines were issued regarding compassionate appointments. The said G.O introduced an age restriction of 30 years in the case of sons/ unmarried daughters and 40 years in the case of widows/ widowers and the said G.O also provided for relaxation of age by the Committee constituted under paragraph 20 of the Chief Minister's standing order No.2 Personnel and Administrative Reforms dated 09.01.1992. The relevant clauses of the Government Order dealing with age restriction and relaxation reads as follows:

"6. Age restriction of 30 in the case of the sons/ unmarried daughters or 40 in the case of widow/ widower will continue.

7. All cases requiring relaxation will be decided by the Committee constituted with reference to para 20 of the Chief Minister's standing order No.2, Personnel and Administrative Reforms dated 09.01.1992. "

6. Subsequently, by G.O.Ms.No.9 dated 19.01.1998 the upper age limit was enhanced to 35 years in case of son/ unmarried daughter and in respect of widow/ widowers the upper age limit was increased to 50 years. Relying upon the aforesaid Government Order, Mr.Nithyanandam would contend that there is provision for relaxation of the upper age limit by the Committee and therefore, the 1st respondent was not right in rejecting the application of the petitioner/ appellant without even referring the matter to the Committee.

7. We see considerable force in the submissions of the learned counsel for the appellant. The application filed by the appellant was otherwise in order and the same has been filed within a period of two months from the date of death of the Government servant, however the 1st respondent had taken nearly four years to dispose of the said application. The application that was filed on 14.06.2010 came to be rejected on 29.10.2014. This, in our opinion, reflects the casual and lethargic manner in which the applications seeking compassionate appointment are being dealt with by the Authorities. While this Court as well as the Hon'ble Supreme Court have been consistently favouring quick redressal to the kin of the Government servant who are in distress or penurious circumstances due to the death of the sole bread winner of the family.

8. We are appalled by the fact that the Government Authorities viz., the District Collectors to whom the applications are made for compassionate appointment take a minimum of four years to dispose of those applications. The very object of providing compassionate appointment is defeated in several cases by such an inordinate delay.

9. We find from the impugned order that the District Collector had rejected the application on the ground that the applicant is over aged. The fact that the applicant is over aged must have been known to the District Collector even on 14.06.2010 i.e., even on the day he received the application of the applicant. We are at the loss to understand as to what made the District Collector to keep the application pending for nearly four years and reject the same on the ground that the appellant is over aged, without even referring the matter to the Committee which is constituted for the purpose of considering the relaxation of the upper age limit.

10. The attention of the learned Single Judge was not, apparently, drawn to the provisions for relaxation of age limit made under G.O.Ms.No.155 dated 16.07.1993. Para 20 of Chief Minister's standing order No.2 provides for Committee consisting of the Chief Secretary, Secretary Personnel and Administrative Reforms, Secretary Finance and Secretary Labour and Employment Departments. It was the duty of the 1st respondent to have placed the matter before the Committee for relaxation of the upper age limit.

11. Since, the said exercise has not been done, we are constrained to interfere in this appeal. The intra-Court appeal is allowed. The order of the learned Single Judge is set aside, the Writ Petition in W.P.No.29338 of 2014 will stand allowed. The order impugned in the Writ Petition passed by the 1st respondent dated 29.10.2014 is set aside with a direction to the 1st respondent to refer the case of the petitioner to the Committee constituted as per paragraph 20 of the Chief Minister's standing order No.2 Personnel and Administrative Reforms dated 09.01.1992, for consideration of relaxation of the upper age limit of the appellant. The 1st respondent is directed to make the reference to the Committee within 15 days from the date of receipt of a copy of the order of the Committee shall consider the same within a period of six weeks thereafter. We are constrained to impose the above said time frame in view of the fact that the 1st respondent had unnecessarily and unduly delayed the disposal of the application made by the appellant seeking compassionate appointment. However in the circumstances there will be no order as to costs.

12. Before we part with this case, we reiterate that the Government and the Authorities concerned will do well to dispose of the applications seeking compassionate appointment at an earlier date without any unnecessary delay as been done in the case on hand. The learned Government Pleaded is directed to impress upon a need for sense of the urgency in disposing of the applications seeking compassionate appointment on the concerned Authorities.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dsa

To

1.The District Collector,
Krishnagiri District, Krishnagiri.

2.The Revenue Divisional Officer,
Krishnagiri.

3.The Tahsildar,
Pochampalli, Krishnagiri District.

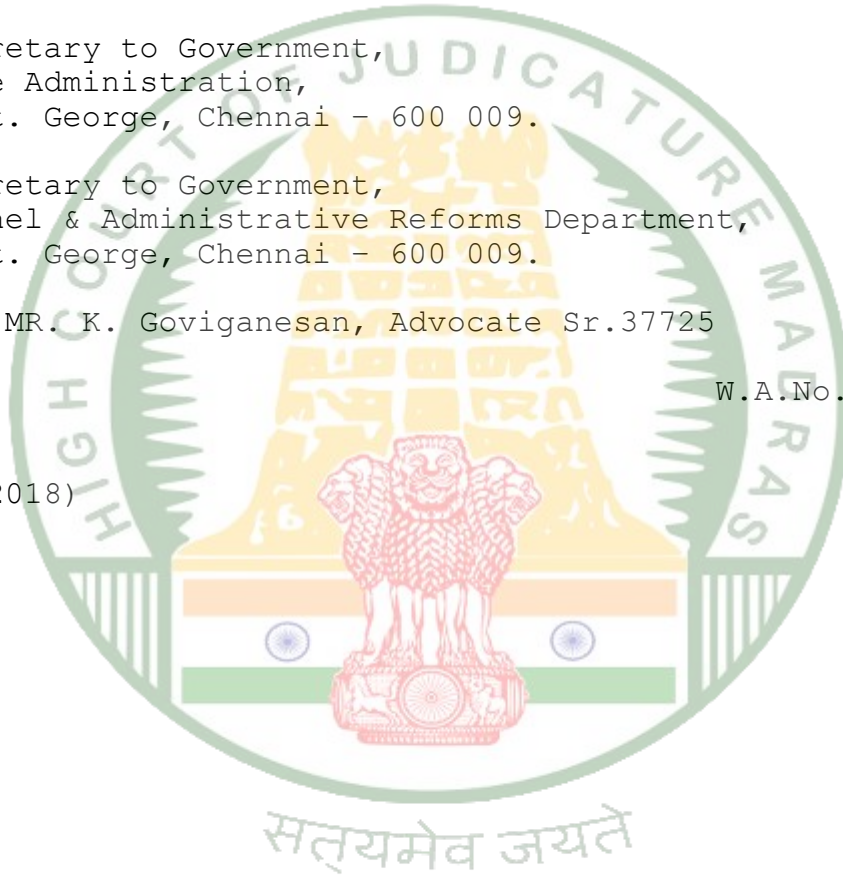
4.The Secretary to Government,
Revenue Administration,
Fort St. George, Chennai - 600 009.

5.The Secretary to Government,
Personnel & Administrative Reforms Department,
Fort St. George, Chennai - 600 009.

+ 1 cc to MR. K. Goviganesan, Advocate Sr.37725

W.A.No.534 of 2017

(CS-VI)
EU(06/07/2018)



WEB COPY