

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

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

W.A.No.602 of 2018
and
C.M.P.No.5835 of 2018

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Home (Police) Department,
Secretariat, Chennai - 600 009.
2. The Director General of Police,
Tamil Nadu, Chennai - 600 004.
3. The Superintendent of Police,
Udhagamandalam,
Nilgiris District.

.... Appellants

versus

R.Jayachandran

.... Respondent

PRAYER: Appeal filed against the order passed by this Court dated 29.09.2016 made in W.P.No.32766 of 2016.

W.P.No.32766 of 2016:

Writ Petition filed under Article 226 of the constitution of India, praying this court to issuance of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent relating to the order in Na. Ka. No.A2/13876/2015 dt 25.8.2015 to quash the same and to issue consequential direction to the respondents to give appointment to the petitioner on compassionate grounds consequent on the death of the petitioner father Thiru J.Rajendran while in service as Police Constable Grade I (No. 839/N1) in upper Coonoor Police Station Nilgiris District.

For Appellants : Mr.V.Anandhamoorthy
Additional Government Pleader

For Respondent : Mr.Kumaravel
for M/s.M.Ravi

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

The challenge in this Writ Appeal is to the order of the learned Single Judge dated 29.09.2016 made in W.P.No.32766 of 2016, in and by which, the learned Single Judge had directed the respondents to consider the representation of the petitioner dated 07.09.2015 seeking appointment on compassionate grounds.

The facts that led to the filing of the Writ Petition are as follows:-

2. The father of the respondent died in harness while serving as a Grade-I Constable on 11.04.1994 leaving behind the respondent, his sister R.Jesintha and his mother Arokiya Mary. Since, the family was in poor and indigent circumstances, the mother of the respondent submitted an application seeking a job on compassionate grounds on 17.04.1996. The said application was rejected by the Government. Therefore, the mother of the respondent had made a request for granting compassionate appointment to the respondent on 23.01.2000. The same appears to have been forwarded to the Secretary to Government, Home Department by the Superintendent of Police, Udhagamandalam on 12.04.2000.

3. It is stated that the petitioner had on 11.07.2002 made a representation to the District Collector, Udhagamandalam seeking appointment on compassionate grounds and the same was forwarded to the Superintendent of Police Udhagamandalam for necessary action. It is claimed that since a ban was imposed by the Government, the said application was not considered. After the ban was lifted in the year 2006, the respondent would claim that he had made several representations seeking appointment on compassionate grounds.

4. It is also stated by the respondent in the affidavit filed in support of the Writ Petition that he had completed B.Sc., Computer Science and B.Ed., in 2010. After completing the aforesaid studies, the respondent had made a further representation on 24.07.2015 to the Superintendent of Police, Udhagamandalam seeking appointment on compassionate grounds. The said claim was rejected by the Superintendent of Police, Udhagamandalam on 25.08.2015, since the application was not made within three years from the date of death of the father.

5. Claiming that in similar cases, this Court as well as the Hon'ble Supreme Court had extended the benefit of compassionate appointment to persons who were similarly placed on the ground that the legal representatives of the deceased employee who were

minors at the time of death of the employee can seek appointment on compassionate grounds after attaining majority, the respondent had moved this Court challenging the order of the Superintendent of Police, Udthagamandalam dated 25.08.2015 and also sought for a direction to the Authorities to consider granting him a job on compassionate grounds. This Writ Petition came to be allowed by this Court on 29.09.2016. Aggrieved, the Government is on appeal.

6. While it is true that the scheme of compassionate appointment is intended for benefiting the family of a Government servant which is forced to indigent circumstances because of the untimely death of the Government servant, the Hon'ble Supreme Court had time and again pointed out that compassionate appointment is meant to redress the situation or the immediate necessity caused by the untimely death of the Government servant. It has also been made clear that compassionate appointment is not a vested right. The Hon'ble Supreme Court as well as this Court had also time and again pointed out that belated applications seeking compassionate appointment shall not be entertained.

7. The facts set out above would show that the application filed by the mother in 1996 was rejected and thereafter, the mother of the respondent sought for compassionate appointment to him on his attaining majority. Admittedly, the respondent attained majority sometime in 2002, though he had given a representation on 11.07.2002, it appears that he had not very seriously pursued the same. On the other hand, he had pursued his education and he has completed his B.Sc., Computer Science and B.Ed., in April 2010. Even after completing B.Sc., Computer Science and B.Ed., the respondent did not immediately approach the appellants seeking compassionate appointment. He made a request only on 24.07.2015 i.e., nearly 12 years after attaining majority and 21 years after the death of his father.

8. As already pointed out, the scheme of compassionate appointment is meant for addressing the immediate necessity that shall arise due to the death of the Government Servant in harness. The same cannot be treated as vested right to be invoked as and when the legal representative pleases. As already pointed out, the application by the mother was rejected even in the year 1998 and the applicant sought for compassionate appointment only on 24.07.2015. Though he claims that he had made several previous representations, there is no reference to such representations, in the representation made by him on 24.07.2015. Therefore, we find that the respondents were right in rejecting the claim as a time barred claim.

9. The learned Single Judge has taken note of the judgment rendered by the Hon'ble Supreme Court in Civil Appeal No.2039 of 2006 dated 30.03.2010 in Chief Engineer, Tamil Nadu Electricity Board and another Vs. Indirani Ammal. The said judgment ought not to have been applied to the facts of the present case, inasmuch as the regulations of Tamil Nadu Electricity Board as they were at the relevant point of time contained a provision which enabled the legal heirs of a deceased employee to seek compassionate appointment after attaining majority. As of today, the said provision has also been withdrawn by the Tamil Nadu Electricity Board.

10. Therefore, we do not think that the learned Single Judge was right in setting aside of the order of rejection dated 25.08.2015 and directing the appellants to consider the application of the respondent for compassionate appointment.

11. In fine, the Writ Appeal is allowed, the order of the learned Single Judge is set aside and the Writ Petition in W.P.No.32766 of 2016 will stand dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

dsa

To

1.The Secretary to Government,
Home (Police) Department,
Secretariat, Chennai - 600 009.

2.The Director General of Police,
Tamil Nadu, Chennai - 600 004.

3.The Superintendent of Police,
Udhagamandalam,
Nilgiris District.

+1 CC to Mr.M. Ravi, Advocate sr 45230.

+1 CC to The Govt. Pleader sr 45298.

W.A.No.602 of 2018

SP(01/08/2018)