

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2018

CORAM:

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P. No. 8047 of 2011

and

M.P. No. 1 of 2011

R. Kuppammal .. Petitioner

..Vs..

1. The Managing Director,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.
2. The General Manager,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002. .. Respondents

For Petitioner : M/s.Achari and Antoni

For Respondents- 1& 2 : Mr.M.N. Ramesh
Standing Counsel.

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to call for the relating to the impugned order of the 2nd respondent in his letter No.chkuva/pamani/nima2/1425/2010 dated 13.01.2010 and quash the same and highly illegal and consequently direct the respondents to appoint the petitioner on compassionate grounds.

ORDER

Heard M/s.Achari and Antoni, learned counsel for the petitioner and Mr.M.N. Ramesh, learned standing counsel appearing for the respondents-1& 2.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorarified Mandamus, calling the records relating to the impugned order of the 2nd respondent in his letter No.chkuva/pamani/nima2/1425/2010 dated 13.01.2010 and

quash the same and highly illegal and consequently direct the respondents to appoint the petitioner on compassionate grounds."

3. The case of the petitioner is as follows:-

The petitioner's father worked as a sewer in the respondent Board. While, he was in service, he died on 10.10.1991. After the death of her father, she had applied for appointment as compassionate grounds, on 22.03.1993. The said application was followed up by reminders dated 19.04.1993 and also in 1997. However, all the representations were kept pending and the petitioner was informed that her request could not be reconsidered. Hence, petitioner is before this Court.

4. After lapse of nearly 19 years, the impugned proceedings dated 13.01.2010 rejecting the request of the petitioner on the ground that the application was not made within three years from the date of the death of her father. Infact, in the impugned proceedings, it is stated that already petitioner was informed about the rejection of the request by the earlier proceedings dated 07.07.2009, 20.07.2009 and 14.10.2009.

5. Upon notice, Mr.M.N. Ramesh, learned standing counsel has entered appearance for Respondents-1 & 2 and filed a counter.

6. According to the counter affidavit, the application was not made by the petitioner within three years from the date of death of her father. It is disputed by the learned counsel for the petitioner stating that the application was made within three years and therefore the rejection of the request was on untenable ground and is liable to be made.

7. The learned counsel for the petitioner would also rely upon the Order of the Division Bench of this Court, made in W.P.No.900 of 2013 dated 23.07.2014, wherein it was held that,

"4. Admittedly, in the year 1991 when the petitioner's father died, there was no Rule, prescribing time limit and the respondent was also qualified for appointment and he applied, which was also entertained and his name was placed in the wait list and according to the respondent his family is in indigent status even today. The placement of the respondent in the list created a vested right to get appointment as and when his turn comes. Amending Rule with retrospective effect taking away the accrued or vested right is impermissible as per the Constitution Bench Judgment of the Supreme Court reported in (1997) & SCC 623 (Chairman, railway Board vs. C.R.Rangadhamaiah).

5. In such circumstances, as well as in the light of the principle laid down by the Honourable Supreme Court in the judgment cited supra, we are of the view that there is no merit in the writ appeal and the same is dismissed, with a direction to the appellant Corporation to consider the claim of the respondent, without reference to the objection raised in the impugned order, which was set aside by the learned single Judge, and pass fresh orders, taking note of the financial status of the respondent as on today, within a period of six weeks from the date of receipt of a copy of this Judgment. The respondent is directed to furnish latest income certificate obtained from the competent authority, within a period of four weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed".

The above ruling of this Court cannot be applied to the factual matrix of the present case. Admittedly, the petitioner has approached this Court only in the year 2011, after 20 years, from the death of her father.

8. The learned counsel for the petitioner submitted that the rejection was only in 2010 and therefore the petitioner chosen to approach this Court in the year 2011. The said submissions cannot be accepted for the reasons, that the petitioner need not wait for 19 years for the reply from the respondent Board. She kept silent for a passage of long 19 years and approached this Court only in the year 2011.

9. This petitioner has approached this Court by filing the present writ petition, while she was admittedly 47 years of age and that was in the year 2011. The benefit of, providing compassionate is only to mitigate financial crisis to the family under distress and such benefit cannot be extended after period of 20 years. The inordinate delay in obtaining reply from the authorities does not give any cause of action for the petitioner to approach this Court in the year 2011.

10. In view of the above, the writ petition is devoid on merits and therefore the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

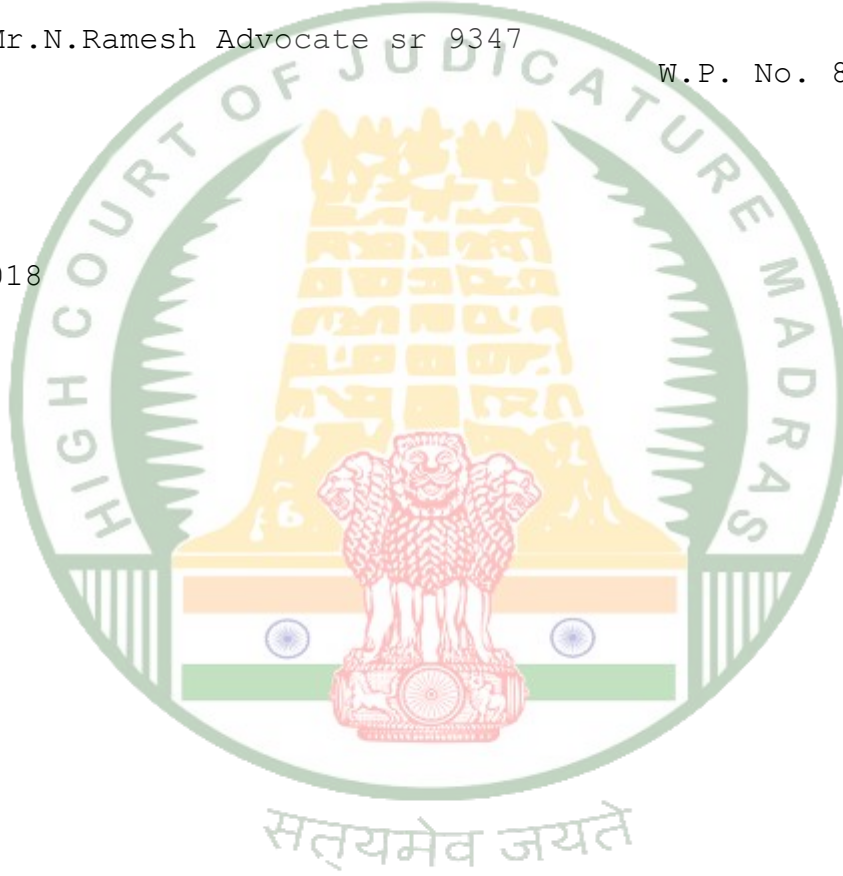
To

1. The Managing Director,
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2. The General Manager,
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+1 cc to Mr.N.Ramesh Advocate sr 9347

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