

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.29018 of 2012

D.Muruganandam

... Petitioner

Vs

1.The Director of Public Health &
Preventive Medicine, Chennai-6,

2.The Deputy Director of Health Services,
Tiruvallur. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in connection with the impugned order passed by him in Na.Ka.No.4428/C3/2001 dated 13.03.2012 and quash the same and further direct the respondents to appoint the petitioner as Junior Assistant on compassionate ground within a reasonable time and grant such other further relief as this Court may deem fit in the circumstances of the case.

For Petitioner : Mr.T.Ayengaraprabhu
for M/s.Muthappan

For Respondents : Mr.T.M.Pappiah
Spl. Govt. Pleader

O R D E R

The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in connection with the impugned order passed by hm in Na.Ka.No.4428/C3/2001 dated 13.03.2012 and quash the same and further direct the respondents to appoint the petitioner as Junior Assistant on compassionate ground within a reasonable time and grant such other further relief as this Court may deem fit in the circumstances of the case."

2. The petitioner's father has worked as Health Inspector in the Primary Health Centre, Veerakuppam, S.Agraharam Village, K.G.Kandigai (via), Tiruvellore District. He died while in service on 21.01.1996. He was a permanent employee and has served nearly 15 years before his death.

3. The petitioner's father left behind his wife, i.e., the petitioner's mother, the petitioner, his younger son and a daughter. At the time of employee's death, the petitioner was 14 years, younger brother 12 years and daughter was 8 years old. At the time of employee's death, though the petitioner was a minor at that time, had applied for consideration of appointment on compassionate ground, vide representation dated 11.11.1997. According to the petitioner, along with the representation, required documents were also enclosed for such consideration. In response to the same, the first respondent vide communication dated 26.11.1997, advised the petitioner to submit the documents in proper format and according to the petitioner, the same has been complied with.

4. Thereafter, the mother of the petitioner has approached the authorities concerned for early appointment, but no action was forthcoming by the respondents. In the mean while, the petitioner attained the age of majority in 2011 and thereafter, once again, he had submitted a representation along with the required documents. However, the authorities concerned did not act upon the representation. The first respondent once again by communication, dated 14.02.2008, directed the petitioner to submit some more documents.

5. While so, the second respondent by proceedings dated 13.03.2012, rejected the claim seeking compassionate appointment on the ground that the documents required to be submitted had been submitted only in the year 2007, i.e., after 6 years from the date of the death of the petitioner's father. The said rejection order is now put to challenge in this writ petition.

6. Upon notice, Mr.T.M.Pappiah, the learned Special Government Pleader entered appearance on behalf of the respondents and filed a counter statement and he reiterated the averments in the counter affidavit wherein the stand taken by the second respondent is that the petitioner belatedly submitted the documents beyond the period of limitation, i.e., three years and therefore, his application for compassionate appointment could not be processed and considered.

7. At this, the learned counsel for the petitioner would submit that admittedly the first application was made on 11.11.1997 and within three years period, the application was submitted along with the required documents. The submission of

the application in the year 1997 on behalf of the petitioner has also been admitted by the respondents. However, for the same reason, the petitioner was asked to submit the documents subsequently and according to the petitioner, the same was also complied with. Therefore, it is not appropriate on the part of the second respondent to reject the claim seeking compassionate appointment on the ground that the documents were submitted belatedly outside the period of limitation.

8.This Court has considered the rival submissions advanced by both the parties and perused the materials and pleadings placed on record.

9.As rightly contended by the learned counsel for the petitioner that the first application was made on behalf of the petitioner in 1997 itself immediately after the death of the petitioner's father and it appears that the application/representation was also accompanied with the required documents. However, for some strange reasons, it was not acted upon. In any event, in 1997, the petitioner was only a minor of 14 years old. After he became major, once again, a representation was renewed which cannot be construed as a belated application, since the same was only a continuance of early request for compassionate appointment. In any case, from the records, it appears that the respondents had not considered the claim of the compassionate appointment in 2008 and that being the case, this Court does not see on what basis the claim came to be rejected vide the communication dated 13.03.2012.

10.More over, it is an admitted case that the original application for compassionate appointment was made within the time stipulated under the scheme for compassionate appointment. Even assuming that there was a delay in submission of the documents, that cannot be a reason for rejecting the request of the petitioner on the ground of delay. This was more so, when the original application was factually made in time and subsequently renewed by the petitioner himself on his attaining the age of the majority. In these circumstances, this Court does not see any justification for the second respondent to reject the claim of the petitioner only on the ground of delay, without considering the claim of the petitioner on its merits.

11.In the above circumstances, the order of the second respondent in Na.Ka.No.4428/C3/2001, dated 13.03.2012, is hereby set aside and the respondents are directed to consider the claim of the petitioner for compassionate appointment in terms of the scheme/recommendations of the Government on merits and in accordance with law and take a final decision in the matter, within a period of eight weeks from the date of receipt of a copy of this order.

12.Since 20 years have elapsed from the death of the petitioner's father, the authorities may consider the claim of the petitioner sympathetically on the basis of the circumstances in which the family is currently placed.

13.With the above direction, this writ petition stands allowed. No costs.

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Sd/-
Assistant Registrar
/TRUE COPY/
Sub-Assistant Registrar

To

1.The Director of Public Health &
Preventive Medicine, Chennai-6,

2.The Deputy Director of Health Services,
Tiruvallur.

+1CC to Mr.M.Muthappan, Advocate in SR.NO. 16507

+1C to the Government Pleader, High Court, Madras in SR.NO.
16708

W.P.No.29018 of 2012

EV [CO]
MLT-26/03/2018

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