

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26/11/2018
C O R A M
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2632 of 2018

A.Babin Dyson @ Bari Neson ... Appellant / Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.
2. The Zonal Officer
Zone V
Corporation of Chennai
Basin Bridge
Chennai.
3. Secretary to the Government
Municipal Administration and
Water Supply Department
Fort St. George
Chennai 600 009. ...Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 18/9/2017 made in W.P.No.39232 of 2015.

Prayer W.P.No.39232 of 2015:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus ,directing the respondent to give compassionate ground appointment in favour of petitioner Representation dated 09.05.2012 .

For Appellant : Mr.N.Beulah John Selvaraj
For Respondent : Mr.R.Arunmozhi, SC
for R.R.1 and 2
Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader for R.3.

J U D G M E N T

(Judgment of the Court was delivered by SUBRAMONIUM PRASAD,
J)

Instant writ appeal is directed against the order, dated 18/9/2017, made in W.P.No.39232 of 2015, by which the writ Court, dismissed the writ petition.

2. Facts of the case in a nutshell are as follows:-

Father of the appellant/writ petitioner was working as a Driver, in Chennai Corporation. He passed away, on 5/10/2000, in harness. It is stated in the writ petition that at the time of death, the appellant was a minor. On attaining majority, the appellant filed an application, seeking compassionate appointment, on 9/5/2012, i.e., after 12 years, from the date of death of the deceased employee. Since the application was not been considered, the appellant has filed Writ Petition, on 10/12/2015. The learned Single Judge dismissed the writ petition on the ground that application for appointment, on compassionate basis, cannot be entertained, after 15 years of the death of the employee.

3. The appellant contended that when his father was alive, his mother had left his father and deserted the appellant and two siblings. It was stated in the petition that after the death of appellant's father, appellant's mother's younger sister's husband was appointed, as guardian. It was submitted that at the time of death of his father, appellant was only 7 years old and therefore, he is entitled for appointment, on compassionate ground.

4. It is well settled that appointment on compassionate ground cannot be claimed as a matter of right and is not an another method of recruitment. Compassionate appointment should be made strictly in accordance with the rules and regulations, governing the subject, taking into consideration the financial consideration of the family. Object of the compassionate appointment is to enable the family of the deceased to overcome the sudden financial crisis.

5. The Hon'ble Supreme Court in Bhawani Prasad Sonkar vs Union Of India & Ors {2011 (4) SCC - 209} has laid down the factors which are to be borne in mind while considering the application for employment on compassionate ground, following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical

invalidation of the bread winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee, viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

6. Order of the learned Single Judge shows that he has culled out all the judgments on the point and therefore, are not being repeated. The summary of all the judgments is that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis of death of the sole bread-winner. It is not a vested right. Compassionate appointment cannot be claimed after long lapse of time. An appointment on compassionate basis made many years after the death of the employee simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Article 14 and 16 of the Constitution of India and is bad and illegal. It is also well settled that the claim of the dependents preferred long of the death of the deceased employee cannot be countenanced. Continued state of penury which after he death of death of the employee cannot be the sole ground to give compassionate appointment.

7. The Judgment of the learned Single Judge, after considering all the judgments on the point does not merit any interference.

8. In the result, Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mvs/gsp

To

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A.SK(29/01/2019)



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