



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.03.2018
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WEB COPY

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R. THARANI

W.A. (MD) .No.303 of 2018

M. Francis Roy

.. Appellant /Writ Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Secretary,
Department of Public Works Department,
And Ground Water, Fort St. George,
Chennai-600 006.
2. The Chief Engineer,
Public Works Department cum
Ground Water Division, Chempauk,
Chennai-600 005.
3. The Superintendent Engineer,
Public Works Department cum
Ground Water Division,
Thallakulam, Madurai-625 002.
4. The Executive Engineer,
Public Works Department cum
Ground Water Division,
Tirunelveli,
Tirunelveli District.
5. The Assistant Executive Engineer,
Public Works Department cum
Ground Water Division,
Nagercoil, Kanyakumari District. ... Respondents /Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.P.(MD).No.3280 of 2013
dated 03.01.2018.

Prayer in WP(MD). 3280/ 2013 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a Writ of Certiorari
Mandamus, calling for the records relating to the impugned



proceedings issued by the 5th respondent Assistant Executive Engineer in Ka.No. Ko.1/2011 dated 15.04.2011, quash the same and further direct the respondents to give compassionate appointment.

For Appellant : Mr.S.Xavier Rajini

For Respondents : Mr.S.Dhayalan
Addl. Govet. Pleader

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JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.S.Xavier Rajini, learned counsel appearing for the appellant and Mr.S.Dhayalan, learned Additional Government Pleader appearing for the respondents.

2.This appeal is directed against the order passed in W.P. (MD).No.3280 of 2013 dated 03.01.2018. The appellant filed this writ petition challenging the order passed by the 5th respondent dated 15.04.2011 by which, a request made by the petitioner for grant of compassionate appointment was rejected.

3.The Writ Court after elaborately considering the legal position as on date, has rejected the writ petition, holding that no relief can be granted to the appellant. We are required to test the correctness of the said order passed in the writ petition.

4.The facts of the case are that the petitioner's father viz., Late S.Maria Arputham, was working as a watchman in the respondent Department under the control of the 5th respondent. The petitioner's father died in harness on 25.12.2000 leaving behind the appellant and his mother as his legal heirs. The appellant case is that on 15.10.2001, he had applied for grant of appointment on compassionate ground and would rely upon the hand written request to the respondents and he has got a date seal of the office of the respondents. The appellant would further submit that though such application was received, no order of appointment was issued as there was ban on recruitment till the year 2006. Subsequently the respondents, vide letter dated 11.09.2008 requested the petitioner to inform as to whether he is willing to accept the job of Office Assistant. Immediately, on 23.09.2008, the petitioner has expressed his willingness to be appointed to the post of Office Assistant. However, on 15.04.2011, the 5th respondent rejected the petitioner's request for grant of compassionate appointment. The order of rejection is on two grounds. First ground is that the alleged application dated 15.10.2001 is not available in the files of the respondent Department. Secondly, the application for grant of compassionate appointment was not done within a period of three years from the



date of demise of the Government Servant. So far as the first issue is concerned, except the hand written representation with the office seal, there is nothing to show that there was a proper application for grant of appointment on compassionate ground and even assuming that there was an application, the appellant was only 14 years of age at the relevant point of time. Thus, when the appellant renewed his request in 2008, it was clearly beyond the period of three years. Appellant's father died in the year 2000 and at this juncture, to exercise the jurisdiction to direct the respondent to grant petitioner appointment on compassionate ground is not feasible of consideration and the issue has been well settled and all relevant judgments of the subject have been referred to by the Writ Court.

5. Thus, the question of exercising discretion after a period of 17 years, after the demise of the Government Servant cannot be done. For the above reasons, we are of the view that the appellant has not made out any grounds to interfere with the order of the writ Court. Hence, the writ appeal fails and stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu
Department of Public Works Department,
And Ground Water, Fort St. George,
Chennai-600 006.
2. The Chief Engineer,
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Ground Water Division,
Tirunelveli District.



5. The Assistant Executive Engineer,
Public Works Department cum
Ground Water Division,
Nagercoil, Kanyakumari District.

+1cc to Mr.S.Xavier Rajini, Advocate Sr.No.53265
+1cc to Spl.Government Pleader Sr.No.53574

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VB/SKN/RSK/SAR3/10.04.2018/4P/8C

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