



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.17641 of 2018

B.AnandaSabarirajan

... Petitioner

Vs.

1.The Principal Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai-600 009.

2.The Registrar of Co-operative Societies,
N.V.N.Maligai,
Kilpauk,
Chennai- 600 010.

3.The Joint Registrar of Co-operative Societies
Madurai Region,
Madurai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in Lr.No.30159/CH 1/10-3 dated 4.5.2011 and to quash the same as illegal and consequently to direct the respondents to provide appointment to the Petitioner under compassionate ground.

For Petitioner : Mr.George Paul Anto

For Respondents : Mr.R.Sethuraman
Special Govt.Pleader

O R D E R

The petitioner has come forward with this Writ Petition seeking to call for the records relating to the impugned order passed by the first respondent in Lr.No.30159/CH 1/10-3 dated 4.5.2011 and to quash the same as illegal and consequently to direct the respondents to provide appointment to the Petitioner under compassionate ground.

2.Mr.R.Sethuraman, learned Special Government Pleader takes
<https://heservices.ecourts.gov.in/heservices/> notice for the respondents. By consent of both parties, the main



Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the Petitioner is that his father died while he was in service on 09.12.1990 and at the time of death of his father, the Petitioner had a mother and sister, who were the other surviving legal heirs and the sister also died in the year 2002. The Petitioner was 3 years old when his father died. The Petitioner an application on 27.12.2010 and the same was rejected on 4.5.2011. The Petitioner has come forward with this Writ Petition challenging the aforesaid rejection order.

4.The case of the Petitioner is that the Principal Seat of this Court has considered the case of the Petitioner in W.A.No.44 of 2016 and in that case it is held that the application for compassionate appointment can be considered and that minor would not make an application and hence the rejection of the request of the Petitioner in that case was not justified.

5.Though there was a delay in that case in approaching the Court, the High Court has considered the case of the Petitioner therein that the application was filed within a period of three years from the date of claimant attaining majority. In this case, the date of birth of the Petitioner has not been mentioned. However, the Petitioner's father died on 9.12.1990 and the Petitioner was three years old at that point of time. He has taken 20 years to make a representation and he has not made any application within three years from the date of attaining majority. Even assuming that the judgement delivered on the appeal made by the Electricity Board, in this case, the Petitioner was 23 years old on the date of making the representation. Hence there was a delay of five years at the time of making application. That apart, the Petitioner has challenged the impugned order of the year 2011 only in the year 2018 and that there is further delay of seven years. Not only on the ground of laches, but also on merits, the Petitioner has not made out a case for appointment on compassionate grounds and the same cannot be claimed as a matter of right.

6.At this juncture, it is relevant to point out paragraph No.20 of a decision reported in **(2011) 4 SCC 209, Bhawani Prasad Sonkar vs. Union of India and others**, wherein the Hon'ble Apex Court has held as follows:-

"20.Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i)Compassionate employment cannot be made in the absence of rules of regulations issued by the Government of 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 de-hors 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."

7. This Court, while dealing with the scope of compassionate appointment in the case of **L.Mohanasundaram .vs. The Joint Director of School Education (Services), College Road, Nungambakkam, Chennai-6 and another made in W.P (MD) No.16402 of 2012, dated 3.1.2018** has categorically held that compassionate appointment cannot be claimed as a matter of right and in the event of applicability of rules, then the concerned person should apply for the same within the reasonable time.

8. In view of the above, I find no merit in the Writ Petition and accordingly, the same stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS-II)

To:

1. The Principal Secretary to Government,
Co-operation Food and Consumer Protection Department,
Secretariat, Chennai-600 009.



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Kilpauk,
Chennai- 600 010.

3.The Joint Registrar of Co-operative Societies
Madurai Region,
Madurai.

+1 CC To MR.L.GEORGE PAUL ANTO, Advocate SR. NO. 77820
+1 CC TO The Spl. Government Pleader SR.NO. 78132

W.P.(MD) No.17641 of 2018

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