



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18669 of 2014

G.Murugesan

... Petitioner

Vs.

1.The District Collector,
Tiruchirappalli District.

2.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Musiri, Trichy District.

3.The Tahsildar,
Taluk Office,
Thuraiyur, Trichy District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the order passed by the first respondent vide Na.Ka.(A4)/18340/2012 dated 08.10.2012 and quash the same and consequently, direct the respondents to appoint the petitioner as Village Assistant of Veeramachanpatty or provide suitable employment opportunity to the petitioner on compassionate ground.

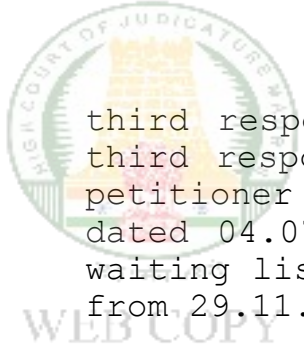
For Petitioner : Mr.D.SHANMUGARAJA SETHUPATHI

For Respondents : Mr. R. SETHU RAMAN, SPL GOVT PLEADER

O R D E R

This writ petition has been filed, challenging the order dated 08.10.2012 passed by the first respondent in Na.Ka.(A4)/18340/2012, by which, the petitioner's request for compassionate appointment was rejected, on the ground that no proof was adduced by him to the effect that he had submitted an application immediately after the demise of his father, viz., in the year 1998 itself. The petitioner also sought a direction to the respondents to appoint him as Village Assistant of Veeramachanpatty on compassionate ground.

2. The case of the petitioner is that his father died on 06.05.1998, while he was in service. Thereafter, he made an application on 20.09.1998 seeking compassionate appointment. As the application did not yield any result, another application dated 13.03.2006 has been made. Thereafter, he received a letter from the



third respondent on 17.03.2006 directing him to appear before the third respondent on 27.03.2006 along with necessary documents. The petitioner has also appeared and thereafter, he received a letter dated 04.07.2009 stating that his name has been empanelled in the waiting list and further stated that there was a ban for recruitment from 29.11.2001 to 21.12.2006 for a period of five years.

3. It is the further case of the petitioner that in similar circumstances, a Hon'ble Division Bench of this Court in the case of **M.Rajagiri vs. The District Collector, Kancheepuram District [W.A.No.1435 of 2018) decided on 02.08.2008**, has passed an order, holding that the ban period has to be excluded for the purpose of counting the submission of application.

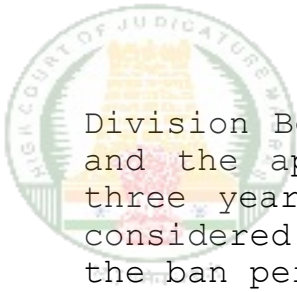
4. Even though the respondents have not filed any counter affidavit, they have submitted that as per G.O.Ms.No.120, dated 26.06.1995, the application got to be applied within a period of three years from the date of demise of the Government Servant, whereas, the petitioner did not make any application within the time limit and the so called application dated 20.09.1998, was not available in the records and hence, the petitioner is not entitled to get the relief. Since the petitioner has made an application in the year 2006 and that the decision cited supra relied upon by the petitioner cannot be made applicable to the facts of this case, this writ petition is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned counsel appearing for the second respondent.

6. It is not in dispute that the petitioner's father died in the year 1998. The petitioner has stated that he had made an application as early as on 20.09.1998 itself and the said application, according to the respondents, is not at all available in their records. In the communication dated 04.07.2009, it has been stated that the petitioner's name has been empanelled only in the waiting list based on the subsequent application dated 13.03.2016.

7. A close reading of the communication dated 04.07.2009 would amply prove the fact that the name of the petitioner was empanelled in the waiting list on the basis of the application dated 13.03.2016 on the presumption that there was an earlier application dated 20.09.1998 and the same was expected to be produced by the petitioner as per the communication dated 04.07.2009. Since the petitioner had not proved the factum of submission of previous application dated 20.09.1998, the impugned order dated 08.10.2012 came to be passed by the 1st respondent, which cannot be faulted with.

8. With regard to the afore-stated decision, referred to by the petitioner, I am of the view that it is not at all applicable to the facts of this case, for the reason that firstly, there was no ban order for making an application within a period of three years from 1998 (i.e. from 06.05.1998). In the said judgment of the Hon'ble



Division Bench, the deceased Government Employee died on 15.07.2001 and the application was made in January 2002 within a period of three years. As there was a ban, the application was not at all considered and in that context, the Hon'ble Division Bench held that the ban period has got to be excluded.

WEB COPY

9. In the present case on hand, the petitioner's father died on 06.05.1998 and he should have made the application on or before 05.05.2001, much prior to the ban period that was imposed by the Government. Therefore, the question of exclusion of ban period does not arise in this case at all, as the facts of the present case is entirely different from the one relied upon by the petitioner and the yardstick applied in the said judgment cannot be applied to the present case.

10. Looking at any angle, it can be seen that the petitioner has not made the application within the time limit as stated supra and even assuming that he had submitted the application as early as in the year 1998, no evidence had been adduced to that effect either before the concerned authority or before this Court. Hence, I am of the view that the petitioner is not entitled to any relief.

11. In fine, this writ petition fails and is dismissed as devoid of merits. No costs.

SD

ASSISTANT REGISTRAR (CRL SIDE)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS II)

Ns

To:

- 1.The District Collector,
Tiruchirappalli District.
- 2.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Musiri, Trichy District.
- 3.The Tahsildar, Taluk Office,
Thuraiyur, Trichy District.

1CC TO MR. D. SHANMUGARAJA SETHUPATHI, ADVOCATE SR 85144
1CC TO THE SPL GOVT PLEADER SR 85615

KK RSK SAR 2 28 12 2018

3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>

W.P. (MD) No.18669 of 2014