

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 30.08.2018****CORAM:****THE HONOURABLE Mr. JUSTICE S. VAIDYANATHAN****W.P. (MD) No. 20083 of 2014**

Mr. A. Nagarajan

... Petitioner

-vs-

1. State rep by
Secretary to Government,
Rural Development and Panchayat Department,
Fort St. George, Chennai-9.
2. The Commissioner,
Directorate of Rural Development and Panchayat
Department,
Panagal Building,
Saidapet, Chennai-15.
3. The District Collector,
District Collectorate,
Pudukkottai-622 005.
4. The Commissioner,
O/o. Tirumayam Panchayat Union,
Tirumayam Taluk,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent vide proceeding Na.Ka.P2/9753/2010 (Development) dated 05.08.2011 and to quash the same and to direct the 3rd respondent to appoint the petitioner on compassionate ground in any post in the 3rd respondent Department.

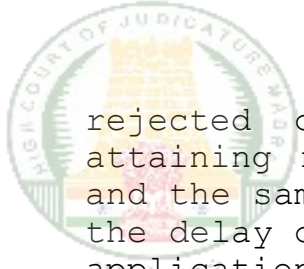
For Petitioner : Mr. K. K. Senthil

For R1 to R3 : Mr. S. Dhayalan
Govt. Advocate

ORDER

This petition has been filed, challenging the order dated 05.08.2011 passed by the third respondent in proceeding Na.Ka.P2/9753/2010 (Development), by which, the petitioner's request for appointment on compassionate ground was rejected, stating that he did not possess requisite age and qualification. The petitioner also sought a direction to the third respondent to appoint him on compassionate ground in any post in the third respondent Department.

2. The case of the petitioner is that his father died on 17.02.2001, while he was in service. The petitioner, pursuant to the death of his father, has made an application to the third respondent on 15.05.2003 seeking compassionate appointment, which came to be



rejected on the ground that the petitioner was minor. After attaining majority, he has made another application on 15.09.2009 and the same was rejected by the third respondent stating that after the delay of 8 years from the date of demise of his father, the said application was made and it ought to have been made within a period of three years from the date of demise of his father. Hence, the petitioner has filed a writ petition in W.P.No.21533 of 2010 before this Court seeking a direction to the respondents to consider his representation dated 02.03.2001 and this Court had disposed of the said writ petition, directing the respondent to take into account G.O.Ms.No.120, dated 26.06.1995 and also the decision of the Apex Court in the case of **Syed Khadim Hussain vs. State of Bihar and others**, reported in **(2006) 9 SCC 195** and consider the case of the petitioner. However, the third respondent, once again by the impugned order, has declined the request of the petitioner on the ground that on the date of application dated 15.03.2003, the petitioner was a minor and that he did not possess the requisite qualification.

3. It is the claim of the petitioner that even after a positive direction issued by this Court, by relying upon the relevant Government Order and the decision of the Hon'ble Supreme Court, the rejection on the part of the third respondent is illegal and that there was a ban during the relevant period i.e., 2001-2006 with regard to the grant of compassionate appointment and therefore, the respondents should have considered his request.

4. It is no doubt true that the petitioner has made an application in the year 2009, immediately after the demise of his father and a reading of the order of this Court dated 26.10.2010 would show that the third respondent was merely directed to consider the representation of the petitioner, which was rightly considered and rejected by the third respondent. Hence, I am of the view that there is no error in the impugned order.

5. It is to be noted that the consideration of appointment on compassionate ground is only a concession extended to an eligible member of the family, who applied for the suitable post immediately after the death of the Government Servant in harness and the said benefit cannot be reserved for ever till a person attaining majority, as the main object of the grant of compassionate appointment is to overcome the indigent circumstances.

6. In the present case on hand, when the petitioner was able to apply for the post, when he was a minor, nothing prevented him to apply, when he was in the age group of between 15 and 18. There is a procedure for appointment on compassionate ground and that the vacancy post will have to be filled up based on the recruitment rules. The petitioner expects that the Department should keep one post vacant till he attains majority, which is not at all possible, as the Government started maintaining a seniority list in respect of sorting out of applications for appointment on compassionate ground.



7. Considering the overall facts and circumstances of the case, this Court is of the view that the impugned order passed by the third respondent does not warrant interference by this Court, as the representation submitted as early as in the year 2009, cannot be directed to be considered at this distant point of time. Hence, this writ petition is dismissed.

8. However, this Court suggest that the Government is expected to frame a scheme or pass a Government Order for dealing with applications submitted for compassionate appointment. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Secretary to Government,
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Tirumayam Taluk,
Pudukottai District.

+1cc to SPL.Govt.Pleader, Sr.No.81491

NS

KM/BK/SAR3/19.12.2018/3P/6C

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