



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.324 of 2014

and

M.P.(MD).Nos.1 & 2 of 2014

A.Raveendran

... Petitioner

Vs.

1.The Director

Animal Husbandry,
Chennai.

2.The Assistant Director,

Animal Husbandry,
Pudukkottai.

.. 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 of the 2nd respondent in Na.Ka.No.1149-AA-2013, dated 04.07.2013, quash the same and consequently, direct the respondents herein to consider the petitioner for employment on compassionate ground.

For Petitioner : Mr.B.Jameel Arasu

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

O R D E R

The petitioner has come forward with this Writ Petition seeking to quash the impugned order of the second respondent dated 04.07.2013, in Na.Ka.No.1149-AA-2013, and consequently, direct the respondents herein to consider the petitioner for employment on compassionate ground.

2.The case of the Petitioner is that his father died on 02.06.1996, while he was in service. According to the Petitioner, at the time of death of his father, he was at 8 years old and his sister was at 6 years old and her mother studied only XII standard. Now, the petitioner attained majority. After obtaining no objections from his mother and also his sister, he made an application on 27.06.2013, for compassionate appointment to the first respondent, who in turn forwarded the same to the second respondent. However, the second respondent has rejected the said application on 04.07.2013 stating that his application was made belatedly. Hence, has has filed the present writ petition.

3.The learned Special Government Pleader appearing for the



respondents would submit that the petitioner did not make any application on completion of 18 years or within the period of 3 years on attaining the age of majority. That apart, the petitioner has knocked the doors of the Court after 22 years from the date of demise of his father. Hence, he prays for dismissal of this petition.

4. At this juncture, the learned Special Government Pleader referred G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995, which reads as follows:

"ORDER

1. The Tamil Nadu Administrative Tribunal, Madras in its orders in O.A.No.6554 of 1993, dated 15.10.1993 and in O.A.No.5111/94 dated 17.10.1994 had observed that the existing Government orders under the scheme of Compassionate grounds appointments may be reviewed and until such review appointment on compassionate ground may be suspended. Accordingly, the Government in the letter sixth rend above had issued instructions to all Heads of Departments to keep in abeyance all appointments and matter relating to compassionate ground appointments.

2. Simultaneously, the Government also reviewed the existing orders under the scheme. After careful review the Government issue the following modifications to the scheme.

1. The application for appointment on compassionate grounds should be made within three years of the death of Government servant;

2. The maximum age limit for such appointment be raised to 50 in the case of widows of the deceased Government Servants.

This order will take effect from the date of the issue of the order."

5. He further relied upon the 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 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 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."

6. 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. In terms of G.O.Ms.No.120, mentioned supra, an application has to be made within three years from the date of demise of the petitioner's father. Since there is a delay, the compassionate appointment cannot be considered to the petitioner.

7. In view of the above, I find no merit in the Writ Petition and accordingly, the same stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(W)

/True copy/

Sub Assistant Registrar(CS-II)

To:

1. The Director
Animal Husbandry,
Chennai.
2. The Assistant Director,
Animal Husbandry,
Pudukkottai.

+1cc to Mr.B.JAMEEL ARASU, Advocate, SR.No.81042

+1cc to M/s.Special Government Pleader, SR.No.80979

W.P.(MD) No.324 of 2014
28.08.2018