



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANANTHAN

W.P. (MD) No. 286 of 2015

and

MP (MD) No. 1 of 2015

WEB COPY

M. Ranjithkumar

... Petitioner

Vs

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in MaNil1 (The.Ma.Nil) / 20389/2007 dated 28.04.2014 signed on 07.05.2014 on the file of the respondent and quash the same as illegal and consequently to direct the respondent to appoint the petitioner as sanitary worker with the respondent corporation on compassionate ground within the time prescribed by this Court.

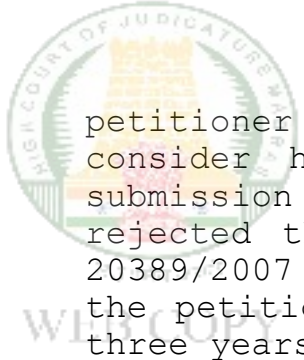
For petitioner	: Mr.T.Aswin Rajasimman for Mr.T.Lajapathi Roy
For Respondent	: Mr.P.Gunaseelan Muthiah Additional Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the respondent in MaNil1 (The.Ma.Nil) / 20389/2007 dated 28.04.2014 signed on 07.05.2014 and quash the same as illegal and consequently direct the respondent to appoint the petitioner as sanitary worker on compassionate grounds in the respondent corporation.

2.The petitioner herein has come forward with the aforesaid prayer seeking compassionate appointment after the death of his father. The grievance of the petitioner is that his father was working as a Sweeper in the respondent corporation and died on 24.08.2000 while he was in service. The petitioner's mother also died on 22.06.2000. At the time of the demise of the petitioner's parents, the petitioner is aged about 11 years. Hence he could not make an application seeking compassionate appointment.

3.The learned counsel for the petitioner submitted that on 19.02.2009, after attaining majority, the petitioner made a representation to the respondent seeking compassionate appointment. The respondent in his proceedings The.Ma.Na.2/1179/09 dated 28.02.2009, considered the petitioner's representation and asked the



petitioner to produce certain documents which are necessary to consider his request of compassionate appointment. Even after submission of all the requisite documents, the respondent has rejected the petitioner's representation in MaNill (The.Ma.Nil) / 20389/2007 dated 28.04.2014 signed on 07.05.2014, on the ground that the petitioner has not applied for appointment within a period of three years from the date of death of the petitioner's father.

4.The learned Additional Government Pleader appearing for the respondent would submit that the application for compassionate appointment should be made within a period of three years from the date of death of a Government Servant and he further referred G.O.Ms.No.120 Personnel and Administrative Department, dated 26.06.1995.

5.The learned counsel for the petitioner drew the attention of this Court to the judgment reported in **2011 (4) MLJ 438 in A.Musthfa Iqbal Basha vs. State of Tamilnadu, represented by its Secretary to Government, Educational Department, Chennai and others** to condone the delay in presenting an application seeking compassionate appointment and that any delay in submitting application for compassionate appointment, can be condoned on the ground of lapse of time and the claim cannot be rejected. Since, both the parents died within a span of two months, the petitioner could not made an application.

6.This Court is of the view that the learned Judge has also referred to the decision of the Hon'ble Apex Court, wherein it is categorically stated that no need to keep the post vacant for the purpose of compassionate appointment who died in harness, till they reach the age of 18. The objective of providing compassionate appointment is to help the family of the deceased Government servant to get over the emergency occurred due to the sudden death of a Government servant dying in harness, thereby leaving his family in penury and without any means of livelihood.

7.The petitioner was a minor at the time of demise of his father. Hence, the case of the petitioner can be considered after he attaining majority. The petitioner is having one sister and one younger brother. A married daughter is also eligible for compassionate appointment. Even though, it has been stated that he has obtained no objection certificate from his sister, the petitioner is having one younger brother who is also major as of now.

8. 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:-

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

9. Though, it is a pathetic situation where both the parents were died within a span of two months in the year 2000, now 18 years have gone by and that the petitioner is now almost 30 years old, the petitioner's representation cannot be considered for compassionate appointment, after a lapse of 18 years from the date of death of the petitioner's father.

10. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected M.P. (MD) No.1 of 2015 is also closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-II)

To
The Commissioner,
Madurai Corporation,
Madurai.

+1cc to Mr. J. Gunaseelan Muthiah, Advocate Sr. No. 83434

PNN

VB/SV/SAR2/11.12.2018/3P/3C