



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD).No.920 of 2014
and
M.P.(MD).No.1 of 2014

V.Pratheepa

...Petitioner

Vs.

- 1.The Director,
Directorate-Rural Development and Panchayat Raj,
Panagal Building, Jeenis Road, Saidapet, Chennai-600 015.
 - 2.The District Collector,
Collectorate-Madurai District, Madurai-625 020.
 - 3.The Personal Assistant to the District Collector (Development),
Collectorate-Madurai District (Development),
Madurai-620 020.
 - 4.The Block Development Officer,
T.Kallupati Panchayat Union,
Madurai District.
- ...Respondents

Prayer: This 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 proceedings of the third respondent in Na.Ka.No.17918/2013/RD.3 dated 25.09.2013 and quash the same as illegal and consequently direct the respondents to appoint the petitioner on compassionate ground either as a Junior Assistant or in any one of the suitable post under the respondents.

For Petitioner : Mr.S.M.Selvakumar

For Respondents: Mr.S.Dhayalan

Government Advocate

ORDER



dated 25.09.2013 and consequently direct the respondents to appoint the petitioner on compassionate ground either as a Junior Assistant or in any one of the suitable posts under the respondents.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

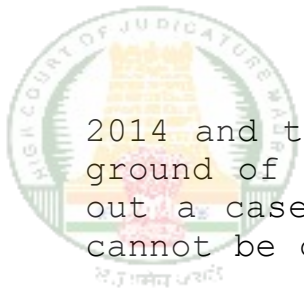
3. The case of the petitioner is as follows:-

The petitioner is the adopted daughter of the deceased Muniammal. The petitioner's mother D.Muniammal, was working as a Maternity Assistant at T.Kallupatti Panchayat Union, Madurai District. The petitioner is the legally adopted daughter of the deceased and her mother died on 14.10.1989, while she was in service that too, within a period of 3 days, from the date of adoption of the petitioner. Thereafter, the petitioner returned to her original mother. The date of birth of the petitioner is 15.12.1979. The said Muniammal died, when the petitioner was nine years old and therefore, she could not be able to apply for the compassionate appointment within three years after the death of the deceased. When she attained majority, she submitted applications to the respondents. On 25.09.2013, the third respondent vide his proceedings in Na.Ka.No.17918/2013/RD.3 rejected the petitioner's claim. Aggrieved by the said order, the petitioner is before this Court.

4. According to the petitioner, the impugned order passed by the third respondent is totally non-application of mind. The petitioner's mother died, when she was nine years old. At that time, she could not be able to get the employment. Therefore, the learned counsel appearing for the petitioner would submit that, if the said application of the petitioner for compassionate appointment is directed to be considered by the third respondent and an order to that effect is passed within the time fixed by this Court, the petitioner would be satisfied.

5. The learned counsel appearing for the respondents would submit that the petitioner is not entitled to get appointment on compassionate ground, as she has not made the request within three years from the date of death of the deceased employee.

6. Admittedly, the petitioner is the adopted daughter of the deceased and this Court does not want to go into the manner of her adoption. Insofar as the compassionate appointment is concerned, the application was made only when the petitioner was almost 26 years old and there is an enormous delay. This Court is of the view that on account of long delay, the petitioner is not entitled to the relief sought for. It is seen that the petitioner has challenged the impugned order of the year 2013 only in the year



2014 and that there is further delay of one year. 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.

7. 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 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."

8. 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 03.1.2018** 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.

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

9. In view of the above, this Court finds no reason whatsoever



to interfere with the impugned order. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CRL-SIDE)

// True Copy //

Sub Assistant Registrar (CS-I)

To

- 1.The Director,
Directorate-Rural Development and Panchayat Raj,
Panagal Building, Jeenis Road, Saidapet, Chennai-600 015.
- 2.The District Collector,
Collectorate-Madurai District, Madurai-625 020.
- 3.The Personal Assistant to the District Collector (Development),
Collectorate-Madurai District (Development),
Madurai-620 020.
- 4.The Block Development Officer,
T.Kallupati Panchayat Union,
Madurai District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.79666

TSG

BU/RSK/SAR-I:22.10.2018 : 4P/6C

W.P. (MD) .No.920 of 2014
and
M.P. (MD) .No.1 of 2014
21.08.2018