



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHANW.P.(MD) No.17984 of 2018

L.Preetha

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Chennai- 600 004.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents to consider the Petitioner for compassionate appointment based on the Petitioner's application, dated 06.06.2018.

For Petitioner : Mr.G.R.Satish

For Respondents : Mr.M.Pandiarajan
1 and 2 Addl. Govt.Pleader

O R D E R

The petitioner has come forward with this Writ Petition seeking for a direction to the respondents to consider the Petitioner for compassionate appointment based on the Petitioner's application, dated 6.6.2018.

2.Mr.M.Pandiarajan, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, the main Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the Petitioner is that the Petitioner's father died on 26.05.2008 while he was in service. Thereafter, the Petitioner's brother made an application for compassionate appointment and at that point of time, the Petitioner was a minor. In the training conducted, it was found that the Petitioner's brother was physically unfit to continue in the job. The Petitioner has also got married and she has got five years old daughter and her husband has also deserted her. The case of the Petitioner is that



when the married daughters are entitled for compassionate appointment, the Petitioner's case should be considered. The Petitioner on attaining major, has made a request within the time frame.

4. From the affidavit, it is very clear that the Petitioner is aged 25 years. Even accepting the case of the Petitioner, within three years from the date of attaining majority, the Petitioner has not made any request for appointment on compassionate grounds. It is no doubt the married daughters are also entitled for compassionate appointment. In this case, the same is not applicable, as the brother of the Petitioner has got employment, but due to physical unfitness he was not able to continue in the job. Even accepting the contention of the Petitioner, the Petitioner has not approached this Court within a period of three years from the date of her attaining majority. In any event, when a family member has given job on compassionate appointment, he should ensure that his job is secured. The contention of the Petitioner clearly shows that the Petitioner has got married and her husband has deserted her and that there is no guarantee that they will reunite in future and if her brother continued in the employment, he would have taken care of the Petitioner.

5. 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 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 6.2.2018 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.

7.In view of the above, I find no merit in the Writ Petition and accordingly, the the same stands dismissed. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar(CS-I)

To:

1.The Director General of Police,
Office of the Director General of Police,
Chennai- 600 004.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+1CC to Special Government Pleader in sr.no.78754.

VSN

DS SKN SAR-1 28.09.2018 3P/4C

W.P. (MD) No.17984 of 2018

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