



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.20541 of 2017

V.Vinoth

... Petitioner

Vs.

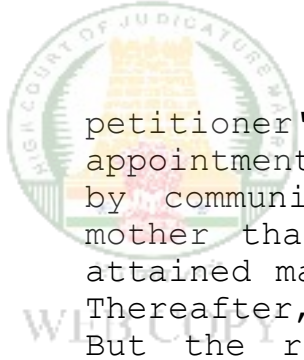
1. The Principal Chief Engineer,
Water Resources cum Chief Engineer(public)
Public Works Department,
Chepauk, Chennai.
2. The Chief Engineer,
Water Resources Department,
Madurai Region, Madurai.
3. The Superintendent Engineer,
Water Resources Department,
Lower Vaigai Basin Circle,
Sivaganga.
4. The Executive Engineer,
Public Works Department/Water Resources
Department,
Lower Vaigai Basin Circle,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer : This writ petition is 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 letter No.E2/763/2017 dated 12.06.2017 on the file of the 4th respondent and quash the same as illegal and directing the 1st respondent to appoint the petitioner as a Junior Assistant or any other competent post under him on compassionate ground and within the time fixed by this Court.

For Petitioner	: Mr.G.Murugendran
For Respondents	: Mr.K.Saravanan, G.A

O R D E R



petitioner's mother submitted an application on 09.09.2006 seeking appointment on compassionate grounds. The fourth respondent herein by communication dated 26.06.2009 had informed the petitioner's mother that she can approach the department after the petitioner attained majority. The petitioner attained majority on 23.03.2012. Thereafter, the petitioner approached the department once again. But the request of the writ petitioner was rejected by citing G.O.Ms.No. 86, Labour and Employment Department dated 04.05.2010. The same is assailed in this writ petition.

2.The learned counsel appearing for the writ petitioner submitted that the impugned order of rejection is not only arbitrary, but also betrays non application of mind.

3.This Court is unable to accept the said submission. The fourth respondent while rejecting the petitioner's request had only placed reliance on G.O.Ms.No. 86, Labour and Employment Department dated 04.05.2010. The petitioner's father passed away in 2004. No doubt, the writ petitioner's mother submitted an application within a period of three years.

4.As held by the Hon'ble supreme Court in the decision reported in **(2000) 7 SCC 192 - (Sanjay Kumar Vs. State of Bihar)**, there cannot be a reservation of a vacancy till such time as the legal heir of the deceased government employee attains majority. In **G.Ramesh Kumar Vs. TNEB (W.P.No.31627 of 2014 dated 27.11.2017)**, the learned Judge of this Court (His Lordship S.M.SUBRAMANIAN, J.), has comprehensively expounded the law relating to appointment on compassionate grounds. After referring to various decisions of the Hon'ble Supreme Court as well as the decision of the Hon'ble Division Bench reported in **2016(5) CTC 125 - The Inspector General of Prisons, Trichirappalli District Vs. P.Marimuthu**, the learned Judge observed that compassionate appointment cannot be granted after the expiry of a reasonable period. In the aforesaid decision, cases similar to the one on hand have also been referred to. In one case, the request for appointment on compassionate ground was not entertained because on the date of application, the applicant was a minor. In the present case also, the writ petitioner's father passed away in the year 2004. The writ petitioner was a minor then. By the time, she submitted an independent application, more than nine years had lapsed. Granting appointment on compassionate grounds after a lapse of 14 years from the date of death of the employment cannot be said to be proper.

5.It is also well settled that no positive direction can be given to the department to appoint any candidate on compassionate grounds. This is because in every department there is a list of eligible candidates and merely because a person approaches the Court one cannot permit jumping the queue. Compassionate appointment cannot be treated as one more source of recruitment. The writ petitioner has not made out a case for interference. The order impugned in this writ petition is sustained.



6.This writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Chief Engineer,
Water Resources cum Chief Engineer(public)
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Sivaganga.
4. The Executive Engineer,
Public Works Department/Water Resources
Department,
Lower Vaigai Basin Circle,
Paramakudi,
Ramanathapuram District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 42845

+ 1 CC TO Mr.G.MURUGENDRAN, ADVOCATE IN SR No. 42690

ARUL

TE/SV-MMS/SAR-3 : 19/02/2018 : 3P/7C

W.P (MD) No.20541 of 2017
18.01.2018