

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.13020 of 2010

K.Sekar

.. Petitioner

Vs.

1.The State of Tamilnadu,
represented by the Secretary,
Agriculture Department,
Fort St.George, Chennai-600 009.

2.The Joint Director,
Department of Agriculture,
Soodamani Street,
Dharmapuri District,
Dharmapurai- 636 705.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to his proceedings K.No.A2/4962/09 dated 17.2.2010, quash the same and consequently direct the second respondent to appoint the petitioner on compassionate ground.

For Petitioner : Mr.S.T.Bharath Gowtham
for T.R.Rajaraman

For Respondents : Mr.A.Ansar
Government Advocate

ORDER

The writ petitioner's adoptive father Ramalingam, while he was working as a Junior Assistant in Agriculture Department, died on 17.08.1985 due to prolonged illness. After the death of the adoptive father, the petitioner's adoptive mother R.Muthulakshmi was appointed as Office Assistant on 27.03.1987 on the ground of compassionate appointment. Thereafter the petitioner's mother died on 30.08.1996 while she was in service. The petitioner is the only legal heir of the above said Late.Muthulakshmi.

2.The petitioner's adoptive mother Muthulakshmi's mother-in-law Aariyamalai, filed O.P.No.6 of 1997 on the file of the

subordinate Court, Attur, under the Succession Act, claiming herself to be the legal heir of the said Late.Muthulakshmi and the said petition was dismissed and the Court declared that the writ petitioner is the legal representative of Late.Muthulakshmi by virtue of the Adoption Deed dated 23.08.1996. The petitioner made a representation on 06.02.1997 within six months from the date of the death of the petitioner's mother. On 01.02.2006, the petitioner preferred an application to the second respondent to consider him for an appointment under the compassionate ground for the death of the petitioner's mother. The respondent has passed the impugned order in his proceedings K.No.A2/4962/09 dated 17.02.2010, rejected the claim of compassionate appointment to the petitioner for the reason that Late.Muthulakshmi herself has been appointed on compassionate ground. Challenging the said order, the petitioner has filed the present writ petition before this Court.

3.The order passed by the second respondent is illegal and the same is unsustainable in law. The said application seeking compassionate appointment was rejected by the second respondent. The second respondent ought not to have given a reason that the second appointment on compassionate grounds cannot be granted. The petitioner has sought for appointment on the death of the petitioner's mother and the application has been filed within a period of three years as per the Circular No.46(VT), dated 13.10.1992. Therefore, the reason in the order is liable to be set aside.

4.The learned Government Advocate has contended that the writ petitioner has filed the application on 01.02.2006 to provide an employment under the compassionate grounds for the death of the petitioner's mother. The reason as stated in the impugned order that the petitioner's application is rejected that the second compassionate appointment cannot be granted to the writ petitioner. There is no such provisions as per the Circular No.46(VT), dated 13.10.1992, for granting second appointment on compassionate ground. Therefore, the respondent has rightly rejected the claim of the petitioner.

5.From the aforesaid contention of the respondent department, and on the factual aspect, the writ petitioner's mother was appointed as an Office Assistant in the department under the compassionate ground for the death of her husband namely Late.Ramalingam and due to illness, she died on 30.08.1996. The petitioner has strongly relying upon the application dated 06.02.1997 submitted to the respondent for claiming compassionate appointment under the respondent department.

6.On perusing the said representation made by the petitioner dated 06.02.1997 which is filed in the typed set of

papers, wherein the petitioner has made a request to the authority to settle the death cum other benefits of his deceased mother Muthulakshmi. But in the aforesaid application, the writ petitioner has not sought for compassionate appointment on the death of his mother. The writ petitioner has filed the application on 01.02.2006 and requested the authorities to provide an employment under the compassionate grounds for the death of his mother.

7.The fact reveals that the petitioner has not submitted the application within the period of three years from the date of the death of the petitioner's mother as per the Circular No.46(VT), dated 13.10.1992 and the petitioner made a representation only on 28.04.2006 and therefore the said application has been filed by the writ petitioner beyond three years period. In fine, on the decision of the Court in the similar circumstances in W.A.No.3241 of 2019 dated 17.09.2019, the Hon'ble Division Bench of this Court has considered the limited period of three years for seeking compassionate appointment.

8.Hence, the petitioner is not entitled for the relief as prayed for in this writ petition and therefore the contention of the writ petitioner cannot be countenanced. Consequently, the writ petition is liable to be dismissed.

9.Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
State of Tamilnadu,
Agriculture Department,
Fort St.George, Chennai-600 009.

2.The Joint Director,
Department of Agriculture,
Soodamani Street,
Dharmapuri District,
Dharmapurai- 636 705.

+1cc to the Government Pleader SR.89689

W.P.No.13020 of 2010

PM(CO)

CB(18/12/2019)