

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.22337 of 2010 and
M.P.No.1 of 2010

G.Selvi

..Petitioner

Vs

1.The Managing Director,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chennai-2.

2.The Senior Administrative Officer,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chennai-2.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order of the 2nd respondent in his letter No.CeKuVa/pamani/nima2/28046/2009, dated 06.08.2009 and quash the same as highly illegal and consequently to direct the respondents to give employment to the petitioner on compassionate grounds.

For Petitioner : Mr.K.S.Elangovan
for M/s. Achari and Antoni

For Respondents : Mr.T.Gowtham
CMWSSB

ORDER

This writ petition is directed against the impugned proceedings dated 06.08.2009 of the second respondent/the Senior Administrative Officer, Chennai Metro Water Supply and Sewerage Board, Chennai, rejecting the request of the petitioner seeking appointment on compassionate ground in view of death of her husband while serving as a Driver in the respondent Board.

2. The grievance of the writ petitioner is that husband of the writ petitioner, namely, T. Gandhi, was employed as a Driver in Chennai Metro Water Supply and Sewerage Board and died on 02.11.1999 while he was in service due to some ailments. After the demise of her husband, the petitioner's family is in indigent circumstances and living with her son and daughter. Thereafter, it is averred, the writ petitioner has submitted an application seeking appointment on compassionate ground on 01.02.2000, which was taken into consideration by the Competent Authority and the above said application was rejected on the ground that as per the terms and conditions of the scheme of compassionate appointment, an application has to be submitted, within a period of three years from the date of death of the deceased employee. After the death of her husband on 02.11.1999, she has submitted an application on 17.07.2009, however, the said application was rejected by the Competent Authority concerned. Thereafter, several reminders were sent by the writ petitioner on 07.03.2000, 08.01.2007 and 17.07.2009 respectively. Subsequently, the 2nd respondent passed the impugned order dated 06.08.2009 and rejected her request on the ground of laches. Hence, the petitioner has come forward with the present writ petition before this Court for getting appropriate relief.

3. Mr.T.Gowtham, learned counsel appearing for the respondents 1 and 2 contended that the petitioner had applied for monetary benefits on 02.02.2000 and not for appointment on compassionate ground and the petitioner's statement that she had applied for compassionate appointment at the time of her claim for the monetary benefits are not correct. He further contended that the compassionate appointment is governed by the rules and regulations as amended by the Government. He further contended that as per G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995, one has to submit an application within three years from the date of death of government servant seeking appointment on compassionate ground. However, the petitioner had not submitted her application for appointment on compassionate ground within the said stipulated period. He further contended that the petitioner's husband died on 02.11.1999 while he was in service and the petitioner should have applied for compassionate ground appointment before 02.11.2002 as per the above limitation period, but, the petitioner did not apply within the time limit. Therefore, the respondent/Board has rightly rejected the petitioner's application on the ground that the said application is submitted beyond the period of three years period as per the Government Order in G.O.(Ms) No.120 Labour and Employment Department, dated 26.06.1995. Since the petitioner had applied belatedly after the period of nine years from the date of death of her husband, the belated application was rejected in accordance with the prescribed

Rule by the respondent Board. Hence, the respondents pray to dismiss the above writ petition.

4. Heard Mr.K.S. Elangovan for M/s.Achari and Antoni, learned counsel appearing for the petitioner and Mr.T. Gowtham, learned counsel appearing for the respondents 1&2 for CMWSSB and perused the materials available on record.

5. It appears that the husband of the writ petitioner T. Gandhi died on 02.11.1999 while he was in service due to illness and thereafter, she made an application on 01.02.2000 before the respondent's Board for the payment of pensionary benefits as well as an employment on the compassionate ground. However, the writ petitioner has not taken any action to pursue the aforesaid application submitted before the Authority concerned. Subsequently, although it is stated that the petitioner had sent several reminders on 07.03.2000, 08.01.2007 and 17.06.2009, she has not filed any such copy of representation in the typed set of papers.

6. Thus, from the above said facts and circumstances of the case, it is clear that she had made an application only on 17.07.2009, that is after the period of 10 years from the date of death of her husband on 02.11.1999. Besides, she has not even stated the reasons for such long delay of 10 years in submitting her representation seeking appointment on compassionate ground. Therefore, the issue will be as to whether the application could be held to be belated.

7. It is relevant to mention that the Government in G.O.(Ms).No.120, Labour & Employment Department, dated 26.06.1995, imposed a condition that the application for appointment on compassionate ground should be made within three years from the date of death of Government Servant concerned. After the issuance of the said Government Order, there was some confusion as to what to do with the applications made by the dependents of the Government servants, who have died prior to G.O.(Ms).No.120, Labour & Employment Department, dated 26.06.1995. Therefore, the Government, vide Letter No.39924/q1/95-1, dated 11.10.1995, have clarified that the three years period specified in G.O.Ms.No.120, Labour & Employment Department, dated 26.06.1995, is applicable only to the dependents of the Government servants, who died while in service on or after 26.06.1995 and it would not apply to past cases. Therefore, as highlighted above, since the petitioner had submitted her application only on 17.07.2009 with a delay of 10 years from the date of death of her husband on 02.11.1999, the impugned rejection order passed by the second respondent refusing to appoint her on compassionate ground is perfectly valid in law and therefore, I am not inclined to interfere with the same.

8. Thus, in such view of the matter, the writ petition fails and the same is dismissed as devoid of any merit. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//
Sub Assistant Registrar

msm

To

- 1.The Managing Director,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road, Chennai-2.
- 2.The Senior Administrative Officer,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road, Chennai-2.

+1cc to Mr.T.Gowthaman, Advocate SR.87698

W.P.No.22337 of 2010

PM(CO)
CB(04/02/2020)



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