

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE Ms.JUSTICE P.T. ASHA

W.A.No.2502 of 2018

M. Manivannan

...Appellant/Petitioner

Vs.

1.Government of Tamil Nadu
represented by Secretary to Government,
Labour and Employment Department,
Secretariat,
Chennai - 600 009.

2.The Chief Inspector of Factories,
Chennai-600 005.

3.The Deputy Chief Inspector of Factories,
Salem.

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against
the order dated 03.11.2017 in W.P.No.35100 of 2013.

WP Prayer: Writ Petition praying to issue a writ of
certiorarified mandamus calling for the records of the Second
Respondent relating to (1) No 02/11381/2012-2 dated 30.04.12
(2)No 02/39344/09 dated 25.03.2010 and (3) No.J2/39344/2009-3
dated 30.12.2009 of the Second Respondent to quash the same and
to issue consequential directions to the Respondents to give
appointment to the petitioner on comparsionate grounds
commensurate with his educational qualification.

For Appellant : Mr.P. Kumaravel
for M/s.M. Ravi

For Respondents: Mrs.A. Srijayanthi,
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by P.T. ASHA, J.,)

This Intra Court appeal is filed by the writ petitioner challenging the order passed in W.P.No.35100 of 2013.

2.The facts in brief which are necessary for disposal of this appeal are as follows:

The appellant's father one A. Marimuthu was employed as Junior Assistant in the office of the Deputy Chief Inspector of Factories, Salem. He died in harness on 10.11.1995 leaving behind his wife Ragini, son M.Manivannan (appellant herein) and his mother Chinnammal, as his legal heirs. On the date of death of Marimuthu, the appellant was only aged about 16 years. On his attaining the age of majority, his mother had made an application on 22.03.1998 to the Deputy Chief Inspector of Factories, Salem, seeking compassionate appointment for the appellant. The said application had been served on the Deputy Chief Inspector of Factories, Salem, on 30.03.1998 itself. Since there was no response to her application she had once again renewed the request vide letter dated 31.07.1999. Thereafter, the 2nd respondent herein had sent a letter dated 24.06.2000 stating that if the application for compassionate appointment had been submitted prior to 09.11.1998, he should go over to the office of the 2nd defendant.

3.In response to the said communication, the appellant had produced a copy of the petition dated 22.03.1998 submitted by his mother. However, since there was a ban for new appointments on compassionate grounds from November 2003 to February 2006, no action was taken. As soon as the ban was lifted, the appellant's mother had submitted a request on 05.10.2006. The 2nd defendant had by his reply dated 31.10.2006, referring to the representation dated 22.03.1998, informed her that they have sought a clarification from the Government as to whether the appellant could be given an appointment as a Watchman commensurate to his educational qualifications and as soon as on receipt of a reply further action would be taken. This was followed by another letter dated 27.07.2007 by the 2nd respondent stating that since there is no vacancy in the post of Watchman in the Department and due to ban, appointment could not be effected and now, the Government was instructing the respondents to fill up the posts on contract basis by engaging Ex-servicemen. They had further gone on to assure the appellant that they have submitted a proposal to the Government to give him appointment as Watchman by granting necessary relaxation and as soon as the response was received from the Government the

appellant would be intimated. However, he had received a letter dated 30.12.2009 from the 2nd respondent stating that since the application for compassionate appointment was received beyond the period of three years the same cannot be entertained.

4. Thereafter, the appellant had tried to bring it to the notice of the respondent that the application for compassionate appointment was made well within the period of three years. However, by letters dated 25.03.2010 and 30.04.2012, the 2nd respondent reiterated the contentions that the appellant cannot be granted compassionate appointment. This order was challenged by the appellant in W.P.No.35100 of 2013. In the said Writ, the appellant had challenged the orders dated 30.12.2009, 25.03.2010 and 30.04.2012.

5. The respondents had once again reiterated the contention that the application was made much beyond the period of three years from the date of death and therefore, the appellant was not entitled to any relief. The learned Single Judge by order dated 03.11.2017 was pleased to dismiss the said Writ Petition. Challenging the said order, the appellant is before this Court.

6. Heard Mr.P. Kumaravel, learned counsel for the appellant and Mrs.A. Srijayanthi, learned Special Government Pleader for the respondents and perused the materials on record.

7. From a perusal of the papers, it is clearly evident that the application for compassionate appointment had been made within a period of two years and four months from the date of death of the employee. The 2nd respondent by their letter dated 27.07.2007 had informed the appellant that he would be considered for appointment. Despite this assurance, the respondents had rejected the request vide their letters dated 30.12.2009, 25.03.2010 and 30.04.2012. The reason given was that the application was made beyond the period of three years. The records would already indicate that the 1st application for compassionate appointment dated 23.03.1998 has been received at the office of the Deputy Chief Inspector of Factories, Salem, on 30.03.1998. The fact that the letter has been received by the respondents is evident from the letter dated 31.10.2006 of the 2nd respondent, wherein the 2nd respondent had knowledge about the representation dated 22.03.1998. In the above circumstances, the impugned letters deserve to be dismissed and consequently, the order in W.P.No.35100 of 2013 is set aside.

8. The Writ Appeal is allowed and the order passed by the learned Single Judge is set aside. We direct the respondents to consider the appellant for compassionate appointment taking

into account the fact that he had made his first representation on 22.03.1998. Such exercise shall be completed within four months from today. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Secretary to Government,
Government of Tamil Nadu,
Labour and Employment Department,
Secretariat,
Chennai - 600 009.

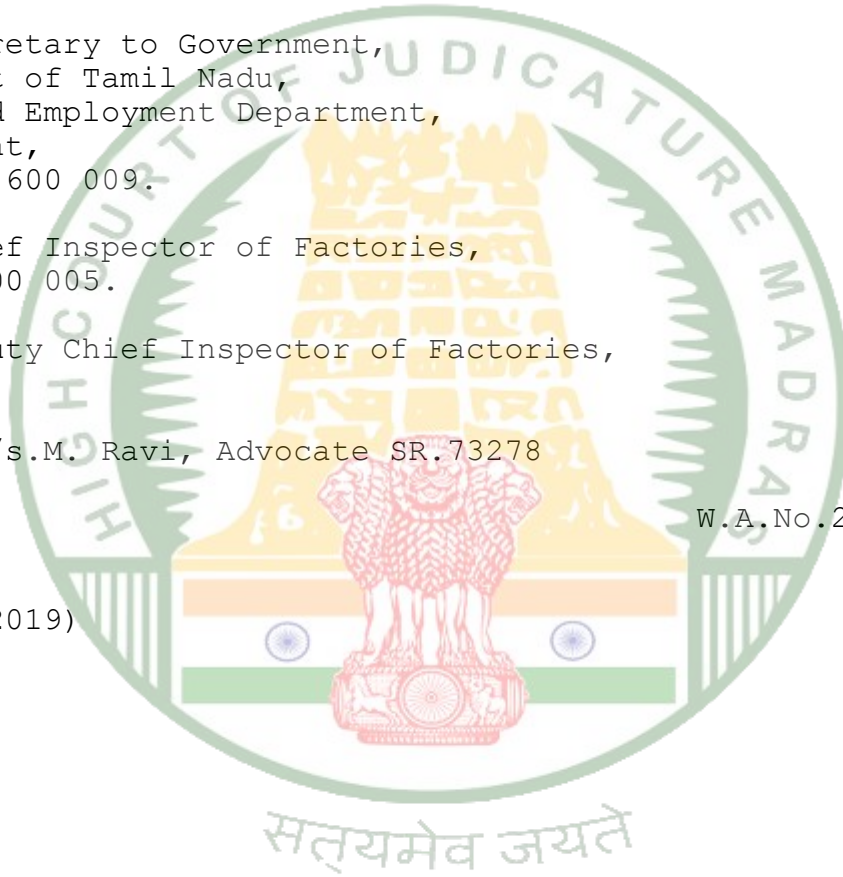
2.The Chief Inspector of Factories,
Chennai-600 005.

3.The Deputy Chief Inspector of Factories,
Salem.

+1cc to M/s.M. Ravi, Advocate SR.73278

W.A.No.2502 of 2018

MG (CO)
CB (15/11/2019)



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