



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

W.P (MD) No.14072 of 2019

M.Vijayavani

.. Petitioner

Vs.

The District Collector,  
Ramanathapuram District,  
Ramanathapuram.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent i.e. the District Collector, Ramanathapuram to pass appropriate orders on the petitioner's application dated 31.01.2011 which was acknowledged during the Public Grievance Day conducted by the District Collector, Ramanathapuram on merits and in accordance with law.

For Petitioner

: Mr.S.Viswalingam

For Respondent

: Mr.K.Chellapandian

Additional Advocate General

assisted by Mr.Aayiram K.Selvakumar

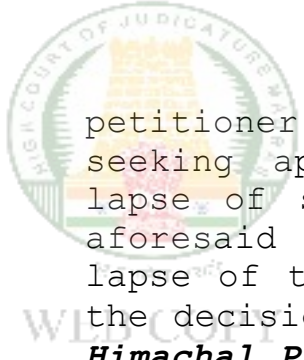
Additional Government Pleader

### **ORDER**

This writ petition has been filed seeking direction to the respondent to consider the petitioner's application dated 31.01.2011, seeking appointment on compassionate ground.

2.According to the petitioner, her mother was working as an Anganvadi worker at Rameswaram and she passed away on 25.11.2009, while in service. Seeking appointment on compassionate ground, the petitioner made a representation dated 31.01.2011, within a period of three years, but, the same has not been considered till date by the respondent. Hence the petitioner is before this Court, seeking the aforesaid relief.

3.The learned Additional Advocate General appearing for the respondent submitted that the petitioner's mother was serving as an Anganvadi worker on consolidated pay. After her demise, the



petitioner made a representation on 31.01.2011 to the respondent seeking appointment on compassionate ground. However, after a lapse of seven years, she has come before this Court with the aforesaid relief, which cannot be considered on the ground of lapse of time. In support of the said contention, he relied upon the decision of the Hon'ble Supreme Court in the case of **State of Himachal Pradesh and another V. Shashi Kumar** reported in (2019) 3 Supreme Court Cases 652, wherein, at paragraph Nos.35 to 37, it is held as follows:

"35. Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In *Umesh Kumar Nagpal (supra)*, this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.

36. We are not impressed with the submission that delay should not be taken into account since Paragraph 8 of the Scheme contemplates that in a situation where all the dependant children of the deceased employee have yet to attain the age of majority, the time limit for submission of an application is extended until the first of the children attains the age of twenty one years. A case where each of the children is a minor falls in a different class altogether. This cannot be equated with a situation where a dependant of a deceased employee who was a major on the date of death fails to submit an application within a reasonable period of time from the death of the employee. This aspect of delay has been dealt with in other decisions of this Court, including *State of J & K Vs. Sajad Ahmed Mir* and *Local Administration Department Vs. M. Selvanayagam*.

37. We see no reason or purpose in now directing the State to reconsider its decision in the case of the respondent which would only result in another round of fruitless litigation. In our view, the respondent is debarred from seeking compassionate appointment by the



delay as well as by the lapse of time which has taken place."

4. Admittedly, the petitioner's mother died on 25.11.2009 and the representation has been made on 31.01.2011. Thereafter, after a lapse of seven years, the petitioner has filed the present petition seeking the abovesaid relief, which cannot be considered, in view of the ratio laid down by the Hon'ble Supreme Court in the aforesaid decision. Hence, this writ petition is liable to be dismissed.

5. In fine, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

To

The District Collector,  
Ramanathapuram District,  
Ramanathapuram.

+1 CC to Mr.S.VISVALINGAM, Advocate ( SR-75928[F] dated 18/07/2019 )

W.P(MD)No.14072 of 2019  
17.07.2019

mj  
AE/ (30.07.2019) 3P 3C