



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P. (MD) No.16328 of 2019

and

W.M.P. (MD) No.12980 of 2019

R.Ponumapathy

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
Chennai - 600 010.

2.The Regional Joint Registrar
(Co-operative Societies),
Nagercoil,
Kanyakumari District.

3.No.Y-298, South Thamaraikulam Primary
Agricultural Co-operative Credit Society Ltd.,
South Thamaraikulam Post,
Kanyakumari District.

... Respondents

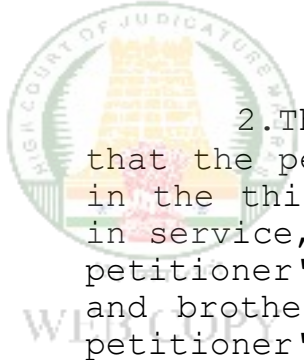
Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Ref.Na.Ka.No.2383/16 P.A.S. dated 10.11.2016, on the file of the second respondent, quash the same as illegal and consequently direct the respondents 1 and 2 to consider the resolution passed by the third respondent, dated 10.10.2015 Primary Agricultural Co-operate Credit Society to appoint the petitioner to any post on compassionate ground, within the time frame to be fixed by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 and R2 : Mr.M.Pandiarajan
Additional Government Pleader

ORDER

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in Ref.Na.Ka.No.2383/16 P.A.S. dated 10.11.2016, on the file of the second respondent, and consequently direct the respondents 1 and 2 to consider the resolution passed by the third respondent, dated 10.10.2015, to appoint the petitioner to any post on compassionate ground, within the time frame to be fixed by this Court.



2.The learned counsel appearing for the petitioner submitted that the petitioner's father viz., Rajasekaran was working as Clerk in the third respondent Co-operative Credit Society. While he was in service, due to cancer, he died on 13.06.2005, leaving behind the petitioner's mother, the petitioner, the petitioner's younger sister and brother, as his legal heirs. Thereafter, on 06.05.2015, the petitioner's mother made an application seeking employment assistance to the petitioner on compassionate ground, but the second respondent has rejected the said application, vide his impugned proceedings, dated 10.11.2016, on the ground that the said application was made beyond the period of three years from the date of death of the petitioner's father and therefore, the petitioner was constrained to approach this Court by way of filing the present Writ Petition, for the relief stated supra.

3.The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the petitioner's mother has not submitted the application for appointment under compassionate ground within three years from the date of death of her husband/employee and she has made an application only on 06.05.2015, i.e., after a lapse of nearly 10 years from the date of death her husband viz., 13.06.2005 and therefore, the petitioner is not entitled to the relief sought for in this Writ Petition and prayed for dismissal of the Writ Petition.

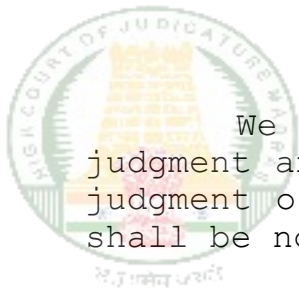
4.I have heard the learned counsel appearing for the parties and perused the materials available on record.

5.The scope and ambit of the issue has already been decided by a Division Bench of this Court in the case of **Inspector General of Prisons Vs. P.Marimuthu** reported in **2016 (5) CTC 125**. Further, the Hon'ble Apex Court in the case of **the Govt. of India and another Vs. P.Venkatesh** [Civil Appeal No.2425 of 2019, decided on 01.03.2019], following its earlier judgment in **Umesh Kumar Nagpal Vs. State of Haryana** reported in **1994 (4) SCC 138**, has held as follows:-

'Bearing in mind the above principles, this Court held:

"6.For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

The recourse to the Tribunal suffered from a delay of over a decade in the first instance. This staleness of the claim took away the very basis of providing compassionate appointment. The claim was liable to be rejected on that ground and ought to have been so rejected. The judgment of the High Court is unsustainable.



We accordingly allow the appeal and set aside the impugned judgment and order of the High Court. In consequence, we affirm the judgment of the Tribunal dismissing the Original Application. There shall be no order as to costs.''

6. It is well settled in a catena of decisions that the scheme of compassionate appointment is to tide over the financial constraints of the family due to the sudden demise of the breadwinner of the family and that the person seeking for employment assistance should make an application to the competent authorities within three years from the date of death of the employee, subject to satisfying the eligibility criteria, for the post to which he/she seeks for.

7. Perusal of the records shows that the petitioner's mother has not submitted the application within three years from the date of death of his father, but, she has applied nearly after a lapse of 10 years from the date of death of his husband, viz., 13.06.2005 and the petitioner has come up with this Writ Petition, challenging the impugned order passed by the second respondent, after a lapse of more than 2 ½ years, and therefore, he is not entitled to any relief as prayed for in this Writ Petition.

8. In the light of the facts and circumstances of the case and the decision of the Hon'ble Apex Court as well as this Court, the impugned order of the second respondent dated 10.11.2016, rejecting the request of the petitioner's mother, is perfectly valid and there is no reason warranting interference by this Court. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Registrar of Co-operative Societies,
Chennai - 600 010.

2. The Regional Joint Registrar
(Co-operative Societies),
Nagercoil,
Kanyakumari District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-77201[F] dated 24/07/2019)

+1 CC to M/s.SPL GP (SR-77690[F] dated 25/07/2019)

W.P. (MD) No.16328 of 2019
23.07.2019