



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.08.2019
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.11654 of 2014

C.Sivakolam

... Petitioner

Vs.

1.The Director,
The Directorate of School Education,
College Road,
Chennai - 6.

2.The District Educational Officer,
District Educational Office,
Nagercoil,
Kanyakumari District.

3.The Headmaster,
Govt. High School,
Ezhakaram,
Nagercoil - 629 002,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records from the second respondent relating to the impugned order dated 05.04.2013 passed in Na.KA.No.10573/A1/2006, quash the same and consequently direct the respondents to provide the petitioner suitable compassionate appointment in the respondent department within a specified period as may be fixed by this Court.

For Petitioner : Mr.RM.Sivakumar

For Respondents : Mrs.S.Srimathy

Special Government Pleader

O R D E R

The order of rejection dated 05.04.2013, rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition. The father of the writ petitioner Shri.S.Chockalingam was working as Drawing Master and died on 21.11.1999, while he was in service.

2.Learned Counsel appearing on behalf of the writ petitioner states that the family was in penurious circumstances. The writ petitioner submitted an application on 27.09.2000, seeking



appointment on compassionate grounds. However, no decision was taken by the authorities during the relevant point of time and the impugned order of rejection was issued in proceedings dated 05.04.2013, after a lapse of about 13 years.

3.The learned Counsel for the writ petitioner states that the family of the writ petitioner is still in indigent circumstances and the writ petitioner is a differently abled person and therefore his case is to be considered for compassionate appointment.

4.The learned Special Government Pleader appearing on behalf of the respondents submitted that the deceased employee passed away on 21.11.1999. The writ petitioner got married on 09.12.2004. The petitioner is having two children and the brother of the writ petitioner is gainfully employed and the authorities competent found that the family was not in penurious circumstances. Thus, the scheme of compassionate appointment cannot be extended.

5.However, learned Counsel for the writ petitioner also admits that the brother of the writ petitioner is owning a house and the mother of the writ petitioner is receiving family pension. However, the fact remains that the deceased employee passed away on 21.11.1999. Application submitted in the year 2000 was not considered for about 13 years. The writ petitioner also had not pursued the remedy vigilantly. The writ petition was filed after 15 years from the date of the death of the deceased employee. Now 19 years lapsed. The petitioner was aged about 34 years at the time of filing of the present writ petition and now he would be 39 years. Thus, the writ petitioner is not only over-aged but the family in penurious circumstances has seized. This being the factum of the case, the claim for compassionate appointment cannot be granted to the writ petitioner at this length of time.

6.The Hon'ble Supreme Court of India in number of cases held that the scheme of compassionate appointment cannot be granted after a lapse of many years. In this regard, it is relevant to state the judgment of the Hon'ble Supreme Court of India, in the case of **State of Himachal Pradesh and another vs. Shashi Kumar** reported in **(2019) 3 SCC 653**, which reads as follows:-

"18.While considering the rival submissions, it is necessary to bear in mind that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. Dependants of a deceased employee of the State are made eligible by virtue of the policy on compassionate appointment. The basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the

ass.
app

7. In the case of the **Government of India Vs. P. Venkatesh (Civil Appeal No. 2425 of 2019)**, the Hon'ble Supreme Court of India has held as follows:-

"The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory



institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee."

8. In view of the legal principles settled by the Supreme Court that the scheme of compassionate appointment cannot be extended after a lapse of many years, this Court is not inclined to consider the case of the writ petitioner at this point of time.

9. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

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+1 CC to Mr. RM. SIVAKUMAR, Advocate (SR-79638[F] dated 05/08/2019)
+1 CC to SPL GP (SR-79928[F] dated 06/08/2019)

W.P[MD]No.11654 of 2014

05.08.2019

MR

MK (16.10.2019) 4P 6C

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