



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.13817 of 2014

and

M.P.[MD]No.1 of 2014

R.Muthu Bharathi

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Public Works Department,
St. George Fort,
Chennai - 600 009.
- 2.The Principal Chief Engineer,
Water Resources Organization
cum Chief Engineer,
Public Works Department,
Chepauk,
Chennai - 600 005.
- 3.The Chief Engineer,
Public Works Department,
Water Resources Organization,
State Ground and Surface Water Resources Data Centre,
Tharamani,
Chennai - 600 113.
- 4.The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Special Project - Circle,
Chepauk,
Chennai - 600 005.
- 5.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Special Project Division - IV,
Kanchipuram District.
- 6.The Superintending Engineer,
Water Resources Organization,



Public Works Department,
No.46, North Chithirai Street,
Madurai - 1.

... 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 pertaining to the impugned order in Letter No.E2(4)/3990/2014 dated 14.06.2014 on the file of the fourth respondent and quash the same as illegal and consequently directing the first respondent to appoint the petitioner on compassionate grounds for any post for which she is eligible within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

O R D E R

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2.The father of the writ petitioner who was employed as Driver died on 24.11.2004, while he was in service. The mother of the writ petitioner submitted an application initially seeking compassionate appointment. However, the writ petitioner during the relevant point of time, was a minor and was aged about 9 years old. Thus, no appointment was provided and the mother of the writ petitioner was not pursuing the claim for compassionate appointment. However, on attaining majority, she submitted an application on 18.12.2013. The said application was rejected by the authorities in proceedings dated 14.06.2014, stating that during the relevant point of time, the deceased employee passed away and the writ petitioner was a minor and therefore, the application now submitted in the year 2013 cannot be considered at all.

3.Learned Counsel for the writ petitioner states that the family is still in indigent circumstances. Circumstances of the families after a lapse of many years from the date of the death of the deceased employee are immaterial. Growth or otherwise of the individual families are dependent on various factors. Thus, the claim of compassionate appointment cannot be granted merely on the ground that the family is having some financial crisis. It is not the scope of the scheme to provide one appointment to the legal heir of the deceased employee.



4. The very purpose and object of the scheme is to mitigate the sudden circumstances arisen on account of the sudden death of the employee. Thus, the family in distress during the relevant point of time alone is to be granted the benefit. If at all the indigent circumstances continues for several years, in such an event the very scope and object of the scheme would be affected. Every family would claim that after 20 years the family is in indigent circumstances and therefore, the appointment is to be provided. The purpose of the scheme is not to provide one appointment to one family. In the present case on hand, the father of the writ petitioner died on 24.11.2004 and the wife of the deceased employee had not pursued the application for appointment. The writ petitioner who was a minor during the relevant point of time submitted a fresh application on 18.12.2013, after a lapse of 9 years from the date of the death of the deceased employee and after attaining the age of majority. Thus, the scheme of compassionate appointment now cannot be considered after a lapse of 15 years from the date of the death of the deceased employee, on account of the legal principles settled by 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. Dependents 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 employee while in service. It is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a dependent member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfil the terms of the policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment. But, where there is a policy, a dependent member of the family of a deceased employee is entitled to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State."



5. 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:-

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"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."

6. 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.



7. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD II)

Sub Assistant Registrar (CS)

MR

To

1. The Secretary,
Government of Tamil Nadu,
Public Works Department,
St. George Fort, Chennai - 600 009.
2. The Principal Chief Engineer,
Water Resources Organization cum Chief Engineer,
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Chepauk, Chennai - 600 005.
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6. The Superintending Engineer,
Water Sources Organization,
Public Works Department,
No.46, North Chithirai Street,
Madurai - 1.

+1CC TO MR.T.LAJAPATHIROY, ADVOCATE, SR NO.80165

+1CC TO M/S.SPL GOVERNMENT PLEADER, SR NO.79962

W.P[MD]No.13817 of 2014

05.08.2019

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