



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD).No.14716 of 2014

S.Azhagarsamy

... Petitioner

-Vs-

1.The District Collector,
Ramanathapuram District.

2.The Commissioner/Block Development Officer,
Kamuthi Panchayat Union,
Ramnad District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 1st respondent in Na.Ka.V4/33427/2014, dated 4.7.2014, quash the same and consequently direct the respondents herein to consider the petitioner for compassionate appointment.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.D.Muruganantham
Additional Government Pleader
(for R1)

Mr.K.P.Krishnadoss (for R2)

ORDER

The order of rejection dated 04.07.2014, rejecting the claim of the writ petitioner for providing compassionate appointment is under challenge in the present writ petition.

2.The father of the writ petitioner Late Mr.Chokkanathan, was employed in the second respondent/Panchayat Union and died on 21.05.2009. The writ petitioner submitted an application, soon after the death of his father. However, there is no acknowledgement in respect of the said application.



3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner submitted an application in person, in the absence of any proof to show that the application was submitted to the competent authority within the time limit, the mere statement cannot be trusted upon for the purpose of consideration of his cases for providing the public employment.

4.However, the second application submitted by the writ petitioner on 18.06.2014 was considered and the same was rejected in proceeding dated 04.07.2014, on the ground that the writ petitioner had not submitted the application within a period of three years.

5.Even in such cases, the applications were submitted soon after the death of his father, the Government order, the person who submitted the application should establish that the application reached the competent authority are acknowledged by the authority so as to consider the claim of the writ petitioner.

6.This Court is of the considered opinion that even at the time of filing the present writ petition, the writ petitioner was aged about 37 years and now he would be around 42 years. Even in that case, the writ petitioner is over aged and cannot be considered for appointment on compassionate ground. The maximum age limit was fixed for compassionate appointment is 35 years, only in respect of spouses the age of 50 years is fixed. This being the terms and conditions of the scheme, the writ petitioner is not entitled for compassionate appointment and further the father of the writ petitioner died in the year 2009 and now already 10 years lapsed.

7.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. 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."

8. 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."

9. In view of the above legal principles already settled by the Hon'ble Supreme Court of India, the writ petitioner is not entitled for appointment on compassionate grounds, after lapse of so many years. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Ramanathapuram District.

2. The Commissioner/Block Development Officer,
Kamuthi Panchayat Union,
Ramnad District.

+1 CC to M/s.SPL GP (SR-80269[F] dated 07/08/2019)

W.P. (MD) .No.14716 of 2014
05.08.2019

KK/SAR/22.08.2019/4P-4C/