



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.14767 of 2014

P.Manivasagan

... Petitioner

-Vs-

1.The Manager,
Tamil Nadu Co-operative Marketing Federation Limited
(TANFED), By-pass Road,
Madurai.

2.The Special Officer,
Tamil Nadu Co-operative Marketing Federation Limited,
TANFED,
91, Saint Mary Church Road,
Chennai-600 018.

... 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 pertaining to impugned order in Na.Ka.No.375/2007, dated 01.07.2014 passed by the 2nd respondent and quash the same and consequently directing 2nd respondent to provide compassionate appointment to the petitioner, namely, S.Manivasagan in a suitable post depending upon his qualification.

For Petitioner : Mr.G.Anbusaravanan

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

ORDER

The impugned order, dated 01.07.2014, rejecting the claim of the writ petitioner for compassionate appointment, is under challenge in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the father of the writ petitioner, Late.Thiru.Sankaraiah was employed as Junior Assistant in TANFED and died on 10.11.2002, while he was in service. On account of the sudden death of the employee, the family of the petitioner was in



penurious circumstance. The mother of the writ petitioner had submitted an application seeking appointment of compassionate grounds on 04.02.2010. However, the said application was not processed. Subsequently, the writ petitioner after attaining the age of majority, submitted a fresh application seeking appointment of compassionate grounds on 26.11.2013. The said application was rejected by proceeding, dated 01.07.2014, which is impugned in the present writ petition. The reasons stated in the impugned order is that the mother of the writ petitioner had already submitted an application and the petitioner has now submitted an application in eve of the application submitted by his mother. As per the terms and conditions of the claim of compassionate appointment, one application from the legal heir of the deceased employee alone can be entertained and the second application submitted by another legal heir cannot be entertained at all.

3.The fact remains that the deceased employee passed away on 10.11.2002. The first application was submitted by the mother, after a lapse of 8 years on 04.02.2010. The second application was submitted by the petitioner on 26.11.2013, after a lapse of 11 years from the date of death of the deceased employee. Thus, no application was submitted seeking appointment on compassion ground within a period of three years from the date of death of the deceased employee. This being factum, the application itself cannot be entertained, in view of the terms and conditions as stipulated under the scheme.

4.The very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arisen on account of the sudden demise of an employee. The very object is to provide one appointment to the legal heir of the deceased employee. Thus, the very object is sought to be achieved must be considered before entertaining all such applications which all are submitted belatedly, in respect of the grounds raised in the present writ petition. This Court is of the considered opinion that now 17 years lapsed and under these circumstances, the scheme of compassionate appointment cannot be extended.

5.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."

6. 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."

7. 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-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Manager,

Tamil Nadu Co-operative Marketing Federation Limited
(TANFED), By-pass Road, Madurai.

2. The Special Officer,

Tamil Nadu Co-operative Marketing Federation Limited,
TANFED, 91, Saint Mary Church Road,
Chennai-600 018.

+1 CC to M/s.G.ANBUSARAVANAN, Advocate (SR-80715[F] dated 08/08/2019)

+1 CC to M/s.SPL GP (SR-81217[F] dated 09/08/2019)

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