



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

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

W.P. (MD).No.16577 of 2014

L.Lenin Lawrence

... Petitioner

-Vs-

1.The Director,
The Directorate of School Education,
St. George Fort, Secretariat, Chennai.

2.The District Educational Officer,
Thuckalai, Kanyakumari District.

3.The Headmaster,
Government High School,
Villunnikonam,
Kanyakumari 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 pertaining to the impugned order in O.Mu.No.2524/A1/2012, dated 10.5.2013 and quash the same and consequently direct the respondents 1 and 2 to give compassionate appointment to the petitioner.

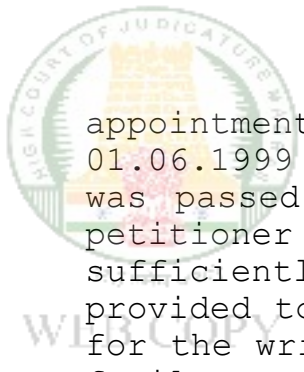
For Petitioner : Mr.M.Saravanan

For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The order of rejection dated 10.05.2013, rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2.The mother of the writ petitioner Smt.Rosemary was employed as a Physical Educational Trainee in the third respondent's school and died on 02.08.1996, while she was in service. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is still unemployed and in indigent circumstances and therefore, her case is to be considered for



appointment on compassionate ground. The application submitted on 01.06.1999 was kept pending for long years and the impugned order was passed in the year 2013, stating that the sister of the writ petitioner is employed in Central Government Department and earning sufficiently. Therefore, the compassionate appointment cannot be provided to the family of the writ petitioner. The learned counsel for the writ petitioner states that the sister is not assisting the family.

3.The learned Special Government Pleader appearing on behalf of the respondents opposed the contentions by stating that when the sister of the writ petitioner is also employed in Central Government Department, the family is not entitled to get the appointment on compassionate ground. This being the terms and conditions of the scheme, the appointment cannot be provided. This apart, the mother of the writ petitioner died on 02.08.1996 and already 23 years lapsed. Thus, the appointment cannot be provided.

4.This Court is of the considered opinion that the scheme of compassionate appointment is a concession and can never be claimed as a matter of right. Scheme being a non-statutory one is to be implemented strictly in accordance with terms and conditions of the scheme, when the deceased employee died in the year 1996 and other daughter of the deceased employee is employed in a Central Government Department. Thus, no further appointment can be granted to another legal heir on compassionate appointment. This being the very purpose and object of the scheme, this Court is of the considered opinion that now after a lapse of above 23 years from the date of death of the deceased employee seeking to compassionate appointment cannot be extended in favour of the writ petitioner.

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 III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Director,
The Directorate of School Education,
St. George Fort, Secretariat, Chennai.

2. The District Educational Officer,
Thuckalai, Kanyakumari District.

3. The Headmaster,
Government High School,
Villunnikonam,
Kanyakumari District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-79829[F] dated 05/08/2019)

+1 CC to M/s.SPL GP (SR-79933[F] dated 06/08/2019)

W.P. (MD) .No.16577 of 2014
05.08.2019

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