



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4754 of 2014

S.Kali

... Petitioner

-Vs-

1.The Director,
Harijan Welfare, Ezhilagam,
Chennai.

2.The District Welfare Officer,
Collectorate, Trichirappalli-1.

3.The District Collector,
Trichirappalli.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 01.03.2011 as forwarded by the Harijan Welfare Tahsildar, Thuraiyur to the third respondent in his proceedings in Na.Ka.A/ / 11, dated 11.03.2011.

For Petitioner	: Mr.V.Singan
For Respondents	: Mr.M.Jeya Kumar, Additional Government Pleader.

ORDER

The relief sought for in the present Writ Petition is for a direction to direct the respondents to consider the representation submitted by the writ petitioner on 01.03.2011 as forwarded by the Harijan Welfare Tahsildar, Thuraiyur to the third respondent in his proceeding dated 11.03.2011.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the father of the writ petitioner, namely, Late. Sundaram, was employed as Cook in the Harijan Welfare Government Welfare School, Nagoor Village, Pachamalai, Thuraiyur Taluk, Trichy and died on 14.03.1997, while he was in service. On account of the sudden demise of the father of the writ petitioner, the family was in penurious circumstances. Thus, the writ petitioner submitted an application, seeking appointment on compassionate ground on 12.11.1999. The said application was duly forwarded by the Special Tahsildar, on 16.07.2012. In spite of that,



no order has been passed and till date, the application submitted by the writ petitioner is also kept pending. Under those circumstances, the writ petitioner preferred the present Writ Petition during the year 2014.

3. The learned Additional Government Pleader appearing on behalf of the respondents opposed the contentions by stating that scheme of compassionate appointment cannot be extended, after a lapse of many years. The father of the writ petitioner passed away on 14.03.1997 and the application was filed on 12.09.1999. The Writ Petition was filed in the year 2014, after a lapse of so many years and therefore, the Writ Petition itself is liable to be rejected.

4. This Court is of the considered opinion that scheme of compassionate appointment is a concession. Compassionate appointment can never be claimed as a matter of legal right. The compassionate appointment is to be provided to the needy family, within a reasonable period of time. Lapse of many years leads to the factual inference that the penurious circumstances arising on account of the sudden death of an employee became vanished. Thus, the scheme of appointment on compassionate grounds is to be provided by the competent authorities, within a reasonable period of time. The very purpose and object of the scheme is to mitigate the circumstances, arising on account of sudden death of an employee. Thus, the scheme is to be implemented strictly in accordance with the terms and conditions and by ascertaining the indigent circumstances of the family.

5. The scheme is being implemented for certain genuine purposes, the same cannot be misinterpreted or misutilized, so as to extend the benefit of one appointment to the legal heir of the deceased employee. The authorities competent are bound to verify the penurious circumstances and the need of the family, while assessing the income, even the terminal and pensionary benefits as well as the quantum of family pension also to be assessed by the competent authorities.

6. As far as the present Writ Petition is concerned, the deceased employee passed away on 14.03.1997, the application was submitted on 12.11.1999 and the Writ Petition is filed in the year 2014, after a lapse of about 17 years from the date of death of the deceased employee. Even at the time filing of the Writ Petition, the writ petitioner was aged about 32 years and was married. Now, the writ petitioner would be around 37 years.

7. This being the factum, seeking appointment of compassionate grounds cannot be extended at this length of time and this Court also considered the various judgments of the Hon'ble Supreme Court of India in many such similar cases.

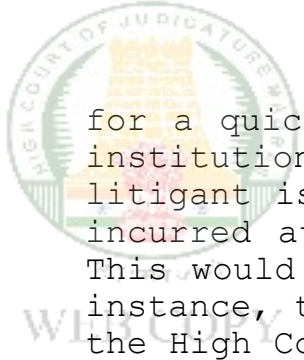


vs. Shashi Kumar reported in **(2019) 3 SCC 653**, which reads as follows:-

"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 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."

9.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."

10. In view of the facts and circumstances as well as the legal principles, the writ petitioner is not entitled for the relief of compassionate appointment. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1. The Director,
Harijan Welfare, Ezhilagam,
Chennai.
2. The District Welfare Officer,
Collectorate, Trichirappalli-1.
3. The District Collector,
Trichirappalli.

W.P (MD) No. 4754 of 2014

MYR
JM/29.07.2019/4P-4C