



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.07.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.14128 of 2015
and
M.P. (MD) No.1 of 2015

S.Anantharaj ... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Small Industries (SIE) Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Tamil Nadu Small Industries
Corporation Limited,
Represented by its Managing Director,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the second respondent in X.N.Dis/EB2/2015, dated 17.07.2015 and quash the same as devoid of merits and consequently, direct the respondents to appoint the petitioner in any one of the suitable post on compassionate ground on the death of their employee V.Subburaj based on the petitioner's applications dated 30.01.2001 and 13.07.2015.

For Petitioner : Mr.Ananth C.Rajesh

For R1 : Mr.S.Dhayalan,
Government Advocate.

For R2 : Mr.S.Karunakar

ORDER

The order dated 17.07.2015, returning the application for appointment on compassionate ground submitted by the writ petitioner, is under challenge in the present Writ Petition.

<https://hcservices.ecourt.gov.in/hcservices/> The learned counsel appearing on behalf of the writ petitioner states that the father of the writ petitioner was



employed in Tamil Nadu Small Industries Corporation (TANSI) and he died on 30.12.2001, while he was in service.

3.The learned counsel appearing on behalf of the writ petitioner states that he submitted an application, seeking appointment on compassionate ground on 30.01.2002. However, the respondents had also not pursued the application diligently, no order has been passed with reference to the application submitted by the writ petitioner during the year 2002. The application submitted by the writ petitioner during the year 2015 was returned by the second respondent by stating that there is no appointment made on compassionate ground. Challenging the said order of return dated 17.07.2015, the present Writ Petition has been filed.

4.The fact remains that the father of the writ petitioner, who was the employee of the second respondent corporation died on 30.12.2001 and the application, seeking appointment was made during the year 2002 and the application was returned in the year 2015. Under these circumstances, this Court is of the considered opinion that there was enormous delay even in pursuing the remedy by the writ petitioner. When the writ petitioner was waiting for more than 14 years from the date of death of the deceased employee, merely by submitting application, the very factual inference is to be drawn that penurious circumstances arose on account of the sudden death of the Government Employee became vanished. The very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arisen on account of the sudden death of the employee. When the family was continuing without appointment on compassionate ground for more than 14 years, the legal presumption is that indigent circumstance was not continued and therefore, at this length of time, the scheme of compassionate appointment cannot be granted.

5.Compassionate appointment is a concession and the same cannot be claimed as a matter of legal right. Compassionate appointment is to be provided strictly in accordance with the terms and conditions of the scheme. The scheme of compassionate appointment is in violation of Articles 14 and 16 of Constitution of India. Thus, the scheme is to be restricted to the extent possible, so as to minimize the violation of the Constitutional right of every candidates, who are aspiring to secure public employment through open competitive process.

6.This being the scope of the scheme like compassionate appointment, the writ petitioner now after a lapse of about 18 years from the date of death of the deceased employee, cannot seek benefit of compassionate appointment.

<https://hcservices.ecourts.gov.in/hcservices/> 7.Recently, the Hon'ble Apex Court in the case of *State of Himachal Pradesh and another vs. Shashi Kumar* reported in (2019) 3 SCC 653 has held as follows:-



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 legal principles settled by the Hon'ble Supreme Court of India, the writ petitioner is not entitled to get appointment on compassionate ground. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To
The Principal Secretary,
Government of Tamil Nadu,
Small Industries (SIE) Department,
Secretariat, Fort St. George,
Chennai-600 009.

+1cc to Mr. Ananth C. Rajesh, Advocate, SR.No.75122

+1cc to the Spl. Govt. Pleader SR.No.75009

Myr

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