



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.1586 of 2015

and

M.P. (MD) No.1 of 2015

M.Ramu

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Health and Family Welfare,
Chennai.

2.The Corporation Commissioner,
Office of the Corporation Commissioner,
Madurai District, Madurai.

... 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 Ma.Ni.II/Themana 5/05540/1999, dated 26.06.2014, on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to appoint the petitioner for the post of a Sanitary worker of any other post on compassionate ground with the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathy Roy

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader
(for R1)

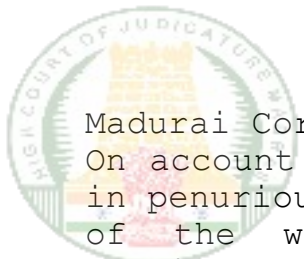
Mr.R.Murali (For R2)

ORDER

The order of rejection, rejecting the claim of the writ petitioner for compassionate appointment in proceeding, dated 26.06.2014, is under challenge in the present writ petition.

2.The father of the writ petitioner
Mr.(Late) M.Muniyandi, was employed as Sanitary Supervisor in

<https://hcservices.ecourts.gov.in/hcservices/>



Madurai Corporation and died on 08.02.1996, while he was in service. On account of sudden death of the deceased employee, the family was in penurious circumstances. The learned counsel appearing on behalf of the writ petitioner states that the application seeking appointment was filed on 10.03.1999. However, the authorities have not appointed the writ petitioner for several years. It is contended that the respondents/Corporation made promises for consideration of the case of the writ petitioner. But the writ petitioner was waiting for several years and submitted many number of representations and none of those representations were considered by the authorities competent. Earlier the writ petitioner filed W.P. (MD)No.10574 of 2013 and this Court directed the respondents to consider the case of the writ petitioner. Pursuant to the directions, the impugned order, dated 26.06.2014 was issued stating that as per the Government order issued in G.O.Ms.No.120, Labour and Employment Department, dated 26.05.1995, the case of the writ petitioner cannot be considered at all.

3.The fact remains that the father of the writ petitioner passed away on 08.02.1996 and the application seeking appointment was submitted on 10.03.1999 and the writ petitioner filed writ petition during the year 2013. Thus, the writ petitioner himself has not pursued the remedy vigilantly within a reasonable period of time, after filing an application in the year 1999. The writ petitioner approached this court in the year 2013, after a lapse of above 14 years, now 23 years lapsed from the date of death of the deceased employee. Thus, the benefit of the scheme of compassionate appointment cannot be extended in favour of the writ petitioner.

4.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. 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."

5. 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."

6. 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

The Secretary,
Department of Health and Family Welfare,
Chennai.

+1 CC to M/s.R. MURALI, Advocate (SR-83505[F] dated 27/08/2019)

+1 CC to M/s.SPL GP (SR-83545[F] dated 27/08/2019)

+1 CC to M/s.T. LAJAPATHIROY, Advocate (SR-83943[F] dated 28/08/2019)

W.P. (MD) .No.1586 of 2015
26.08.2019

sj i

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