



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.7829 of 2014

A.Rizwana

... Petitioner

-Vs-

1.The Director,
Department of Rural Health and Panchayat Raj,
Panagal Park Bungalow,
Saidapet, Chennai-15.

2.The District Collector,
Office of the District Collector,
Trichy.

3.The Block Development Officer,
Office of the Block Development Officer,
Thiruverambur, Trichy Taluk,
Trichy 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 on the file of the 2nd respondent in Na.Ka.Tha 4/9634/2013, dated 03.10.2013 and quash the same as illegal and consequently direct the respondents to give suitable appointment to the petitioner on compassionate ground.

For Petitioner : Mr.Jana Alias Janath Ahmed

For Respondents : Mr.D.Muruganantham
Additional Government Pleader
(for R1 and R2)

Mr.R.Velmurugan (for R3)

ORDER

The order of rejection, dated 03.10.2013, rejecting the claim of the writ petitioner for compassionate appointment, is under challenge in the present writ petition.



2.The father of the writ petitioner Late.Sri.Abdul Kaium was employed as a Male Compounder i.e. Medical Assistant and died on 15.11.1992. During the relevant point of time, the petitioner was a minor and her mother was an illiterate woman and therefore, they have not filed any application seeking appointment on compassionate grounds. The petitioner attained the age of majority during the year 2000 and subsequently, she made an application on 09.12.2002 for appointment on compassionate grounds. The said application was not considered and rejected on the ground that that application was submitted after a lapse of three years from the date of death of the deceased employee.

3.The learned Additional Government Pleader appearing on behalf of the respondents states that the said application of the year 2002 was rejected in proceedings, dated 08.03.2013 and once again it was rejected in the impugned proceedings dated 03.10.2013. The very application itself was submitted after a lapse of ten years from the date of death of the deceased employee. Thus, the petitioner is not entitled for appointment on compassionate grounds.

4.The fact remains that the deceased employee passed away on 15.11.1992 and the writ petitioner after attaining the age of majority submitted an application on 09.12.2002 and the said application was rejected in the year 2013. Thus, 27 years lapsed from the date of death of the deceased employee. The scheme of compassionate appointment being a concession cannot be extended after a lapse of 27 years from the date of death of the deceased employee. The very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arising on account of the sudden death. In view of the fact that the application itself was submitted after a lapse of ten years from the date of death of the deceased employee, the benefit of the scheme cannot be extended to 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 (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Director,
Department of Rural Health and Panchayat Raj,
Panagal Park Bungalow,
Saidapet, Chennai-15.

2. The District Collector,
Office of the District Collector,
Trichy.

+1 CC to M/s.R.VELMURUGAN, Advocate (SR-82610[F] dated 21/08/2019)

+1 CC to M/s.JANA @JANATH AHAMED, Advocate (SR-82780[F] dated 21/08/2019)

+1 CC to M/s.SPL GP (SR-82872[F] dated 21/08/2019)

W.P. (MD) .No.7829 of 2014
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sj i

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