



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P[MD]No.8795 of 2014

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M.Ramu

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in ~~MD.11/05.10.15/05540/99~~ dated 18.03.2014 of the respondent and quash the same and direct the respondent to give compassionate appointment to the petitioner.

For Petitioner : Mr.K.Sudalaiyandi

For Respondent : Mr.R.Murali

Standing Counsel

O R D E R

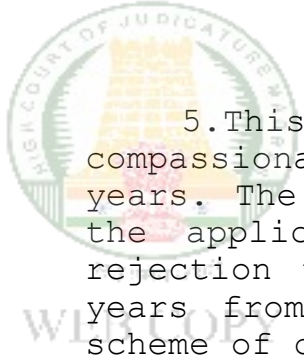
The order of rejection dated 18.03.2014, rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2.The father of the writ petitioner was employed as Sanitary Supervisor in the respondent Corporation and died on 08.02.1996, while he was in service. The petitioner states that after the death of his father, his two elder brothers and two elder sisters got married and living separately. Thus, the family of the writ petitioner was in penurious circumstances.

3.Even at the time of filing of the writ petition, he was around 36 years and now he would be over-aged. This apart, the father of the writ petitioner died in the year 1996. The application seeking appointment was filed on 10.03.1999.

4.The learned Standing Counsel for the respondent states that several opportunity was given to the petitioner to produce the documents enabling the Corporation to consider his application for compassionate appointment. However, for more than 16 years, he has not produced the relevant documents. Thus, it is a fault on the part of the writ petitioner and he has not submitted the relevant documents.

<https://hccourts.mca.gov.in/htdocs/> the present writ petition is to be rejected.



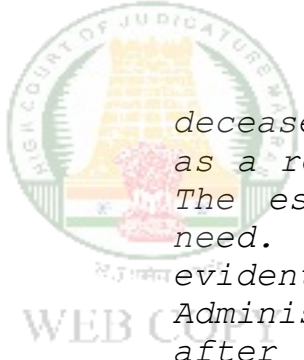
5. This Court is of the considered opinion that the scheme of compassionate appointment cannot be extended after a lapse of many years. The father of the writ petitioner died in the year 1996 and the application was filed in the year 1999 and the order of rejection was passed in the year 2014. Now, after a lapse of 23 years from the date of the death of the deceased employee, the scheme of compassionate appointment cannot be granted.

6. The Hon'ble Supreme Court of India in number of cases held that the scheme of compassionate appointment cannot be granted after a lapse of many years. 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."

7. 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."

8. In view of the legal principles settled by the Supreme Court that the scheme of compassionate appointment cannot be extended after a lapse of many years, this Court is not inclined to consider the case of the writ petitioner.

9. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Commissioner,
Madurai Corporation,
Madurai.



+1 CC to Mr.K.SUDALAIYANDI, Advocate (SR-80163[F] dated 07/08/2019)

+1 CC to Mr.R.MURALI, Advocate (SR-80197[F] dated 07/08/2019)

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mr

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