



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P(MD)No.1007 of 2016

WEB COPY

Lalitha

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Salai,
Keelpakkam, Chennai.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Sivagangai Region,
Sivagangai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Na.Ka.No.AE9/120840/09 dated 03.05.2010 and the order of the 2nd respondent in Na.Ka.No.AD1/0181/2010 dated 01.06.2010 and quash the same and consequently direct the respondents to give appointment to the petitioner's son on Compassionate Ground within the time limit that may be stipulated by the Court.

For Petitioner : Mr.V.Perumal

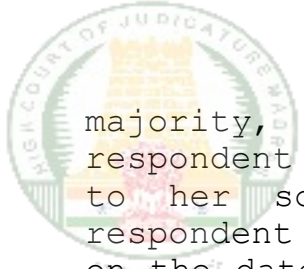
For R1 : Mr.D.Mayarajan

For R2 : No appearance

ORDER

This writ petition has been filed seeking to quash the impugned orders of the first respondent in Na.Ka.No.AE9/120840/09 dated 03.05.2010 and the second respondent in Na.Ka.No.AD1/0181/2010 dated 01.06.2010 and consequently direct the respondents to give appointment to the petitioner's son on compassionate ground.

2.According to the petitioner, her husband was originally working as a Seasonal Helper in the respondent Corporation and his service was regularised by the first respondent vide order dated 12.03.2007, considering the fact that he had served for a period of 3995 as Helper as on 30.06.2006. He died on 28.10.2009, while he was working as a Bill Clerk in the second respondent office. At the time of his death, the petitioner's son was a minor. After attaining



majority, the petitioner made an application to the second respondent on 20.12.2009, seeking employment on compassionate ground to her son. The said application was rejected by the first respondent stating that the petitioner's husband was a probationer on the date of his death and therefore, the claim of the petitioner cannot be considered. Challenging the same, this writ petition has been filed.

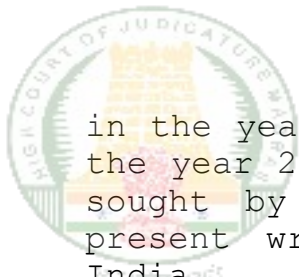
3.The learned counsel for the petitioner submitted that the petitioner's husband was engaged by the respondent Corporation as a Seasonal Helper in the year 1981 and he continued as Seasonal employee till 2007. By the proceedings dated 12.03.2007, the first respondent has provisionally selected the eligible employees for appointment to the post of Bill Clerks, in which, the petitioner's husband has also been selected. Based on the aforesaid selection made by the first respondent, appointment order has been issued to the petitioner's husband and he died, while in probation period. Therefore, the petitioner made an application to the respondents to provide an employment to her son on compassionate ground, since the service of the petitioner's husband has been approved by the first respondent. But the same was not considered by the respondents. Hence, the petitioner is before this Court seeking the aforesaid relief.

4.The learned Standing Counsel appearing for the first respondent submitted that the appointment of the petitioner's husband is only temporary appointment, subject to completion of the probation period. The petitioner's husband has not completed the probation period and therefore, his service has not been regularised. Hence, the petitioner has no right to claim for appointment on compassionate ground in the respondent Corporation. The respondents have rightly rejected the claim of the petitioner and therefore, the impugned proceedings do not require any interference by this Court.

5.Heard the submissions made by both the parties.

6.The petitioner's husband was temporarily appointed by the respondent Corporation subject to the completion of probation period and he passed away, during probation period. According to the respondents, the petitioner's husband has not completed the probation period and his service has not been regularised. Therefore, the petitioner is not entitled to claim appointment on compassionate ground. Further, the learned Standing Counsel submitted that the impugned order has been passed on 01.06.2010 by the second respondent and the petitioner has approached this Court only in the year 2016, after a lapse of six years. Therefore, the relief sought by the petitioner cannot be granted.

7.The service of the petitioner's husband has not been regularised and during the probation period, he passed away. <https://hcservices.ecourts.gov.in/hcservices/> hereafter, the petitioner made a representation to the second respondent in the year 2009 and the impugned orders have been passed



in the year 2010. The writ petitioner approached this Court only in the year 2016, after a lapse of six years and therefore, the relief sought by the petitioner cannot be granted by entertaining the present writ petition under Article 226 of the Constitution of India.

WEB COPY

8. At this juncture, it is useful to rely upon the decision rendered by the Hon'ble Supreme Court in the case of **State of Himachal Pradesh and another V. Shashi Kumar** reported in **(2019) 3 Supreme Court Cases 652**. The relevant paragraphs of the said decision read as under:

"35. Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In *Umesh Kumar Nagpal (supra)*, this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.

36. We are not impressed with the submission that delay should not be taken into account since Paragraph 8 of the Scheme contemplates that in a situation where all the dependant children of the deceased employee have yet to attain the age of majority, the time limit for submission of an application is extended until the first of the children attains the age of twenty one years. A case where each of the children is a minor falls in a different class altogether. This cannot be equated with a situation where a dependant of a deceased employee who was a major on the date of death fails to submit an application within a reasonable period of time from the death of the employee. This aspect of delay has been dealt with in other decisions of this Court, including *State of J & K Vs. Sajad Ahmed Mir and Local Administration Department Vs. M. Selvanayagam*.

37. We see no reason or purpose in now directing the State to reconsider its decision in the case of the respondent which would only result in another round of fruitless litigation. In our view, the respondent is debarred from seeking compassionate appointment by the



delay as well as by the lapse of time which has taken place."

9. In view of the facts and circumstances of the case and having regard to the aforesaid decision rendered by the Hon'ble Supreme Court, this Court finds no force in the contention made by the learned counsel for the petitioner and there is no ground to interfere with the impugned proceedings of the respondents. This writ petition is dismissed accordingly. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Salai,
Keelpakkam, Chennai.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Sivagangai Region,
Sivagangai District.

+1 cc Mr.D.Mayarajan, Advocate, SR.No.77774

+1 cc Mr.V.Perumal, Advocate, SR.No.77577

W.P (MD) No.1007 of 2016

24.07.2019

mj

AM/SAR/06.08.2019/4P-5C/