



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

WEB COPY

W.P (MD) No.1634 of 2016

S.Murugesan

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Block Development Officer,
Block Development,
Keelapavoor,
Tirunelveli District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in Na.Ka.No.Na3/33811/2013 dated 03.09.2013 of the first respondent herein and quash the same and consequently direct the respondents herein to give appointment to the petitioner herein under the compassionate appointment category.

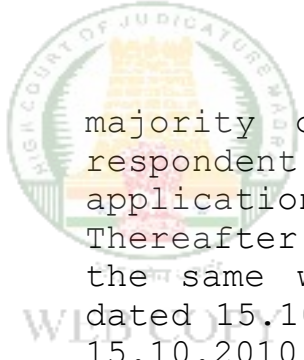
For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

This writ petition has been filed seeking to quash the order passed by the first respondent dated 03.09.2013 Na.Ka.No.Na3/33811/2013 dated 03.09.2013 and consequently direct the respondents herein to give appointment to the petitioner on compassionate ground.

2.According to the petitioner, his father was working as a Salai Paniyalar at Keelapavoor Panchayat Union. He died in an accident on 11.01.2002, while in service. Seeking appointment on compassionate ground, the petitioner's mother made a representation on 11.06.2009, after the petitioner attained



majority on 31.01.2011. By order dated 25.06.2009, the first respondent has rejected the said application stating that the application has not been filed within a period of three years. Thereafter also the petitioner's mother sent a representation and the same was also rejected by the second respondent vide order dated 15.10.2010. Challenging the said orders dated 25.06.2009 and 15.10.2010, the petitioner has filed a writ petition in W.P(MD) No.14606 of 2011 before this Court and the same was allowed, directing the first respondent therein to consider the petitioner's claim afresh. The petitioner was also directed to submit a fresh certificate showing his indigent circumstances to the first respondent. But the claim of the petitioner was rejected by the first respondent by the impugned order dated 03.09.2013 stating that the petitioner has not attained majority at the time of death of his father and the application has also been submitted after three years period. Aggrieved by the same, this writ petition has been filed.

3.The learned Additional Advocate General, based on the counter affidavit filed by the second respondent, submitted that at the time of submitting application by the petitioner's mother, the age of the petitioner was only 12 years and he was studying 7th standard and he attained majority only on 26.04.2008 and at that time, he has not possessed of the prescribed qualifications and he had passed 10th standard only in the month of March, 2006. Further he had not made application within the period of three years i.e. from 11.01.2001 to 11.01.2005. Further, it is submitted that the petitioner's mother had not chosen to submit application, seeking appointment in favour of her second daughter, who was an unmarried at the relevant point of time and she has made application for the petitioner, who was a minor. Therefore, the claim of the petitioner has been rightly rejected by the first respondent and the same does not require any interference.

4.It is an admitted fact that the petitioner's mother has initially made an application on 22.04.2002 and thereafter, after the petitioner attained majority, made an application on 11.06.2009 and the same were rejected by the respondents 1 and 2 vide the orders dated 25.06.2009 and 15.10.2010. Challenging the same, the petitioner has filed W.P(MD)No.14606 of 2011 before this Court on the ground that the first application has been filed within a period of three years from the date of death of his father Shanmugam. This Court, by order dated 05.07.2013, directed the first respondent therein to consider the petitioner's claim afresh without reference to the reasons mentioned in the impugned orders dated 25.06.2009 and 15.10.2010. But the first respondent, once again rejected the claim of the petitioner stating that the application was filed beyond the period of three years.



5.A perusal of the impugned order shows that the first respondent has passed the impugned order stating the very same reason which had been stated in the earlier orders. Though this Court has specifically stated that the first respondent has to consider the claim of the petitioner afresh and pass orders without reference to the reasons mentioned in the impugned orders, the claim of the petitioner has been rejected on the very same ground that the application was made beyond the three years period. Therefore, the reason assigned in the impugned order cannot be sustained and the same is liable to be quashed.

6.In fine, this writ petition is allowed and the impugned order dated 03.09.2013 passed in Na.Ka.No.Na3/33811/2013 is quashed. The first respondent is directed to consider the claim of the petitioner afresh and pass appropriate orders, taking note of the objection raised by the learned Additional Advocate General, within a period of three months from the date of receipt of a copy of this order, without assigning the very same reason stated in the earlier impugned orders as well as in the present impugned order. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Collector,Tirunelveli,
Tirunelveli District.

2.The Block Development Officer,Block Development,
Keelapavoor, Tirunelveli District.

+1cc to Mr.T.PON RAMKUMAR,Advocate, SR.No.75874

mj

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NA (29.07.2019) 3P : 4C