



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.19189 of 2017

N.Muthuselvan

... Petitioner

-Vs-

1.The Director of Panchayat,
Panchayat Directorate Office,
Ezhilagam 6th Floor, Cheppakkam,
Chennai-600 005.

2.The District Collector,
Madurai District.

3.The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

... Respondents

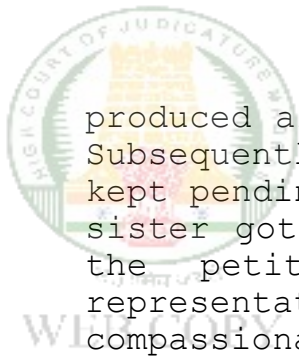
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide suitable employment on the compassionate ground by considering the representation, dated 14.08.2017 in accordance with law within a stipulated time period.

For Petitioner : Mr.N.Anand
For R1 and R2 : Mr.V.R.Shanmuganathan,
Special Government Pleader.
For R3 : Mr.T.S.Mohammed Mohideen

ORDER

This Writ Petition is filed for a direction to the respondents to provide suitable employment on the compassionate ground, by considering the representation, dated 14.08.2017, in accordance with law, within a stipulated time period.

2.The petitioner's father died on 31.10.1994, while he was working as Park Masthoor under the third respondent. The petitioner's mother gave a representation on 13.11.1996 to the third respondent to provide an employment on compassionate ground to the petitioner's sister. The third respondent, by the letter dated 20.11.1996, called the petitioner's mother to submit necessary certificates for consideration. The petitioner's mother has



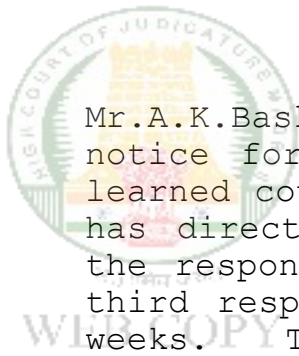
produced all the certificates, as required by the third respondent. Subsequently, the third respondent has not passed any order. It was kept pending for about 10 years. In the year 2006, the petitioner's sister got married. With the consent of all the family members of the petitioner, on 09.11.2006, the petitioner has made a representation to the third respondent to provide employment on compassionate ground. However, no order was passed by the third respondent. On 15.11.2012, the petitioner has made another representation to the first respondent to provide employment on compassionate ground. The first respondent, by the proceedings dated 03.12.2012, has directed the other respondents to look into the matter and pass suitable orders. Thereafter, no order was passed. Hence, the petitioner has come out with the present Writ Petition.

3.The third respondent has filed counter affidavit and submitted that the petitioner has suppressed the fact that his claim for compassionate appointment was rejected by the third respondent on 05.12.2017 and the same was communicated to the petitioner. The petitioner's father died on 31.10.1994 and he has not made any application, within a period of three years from the date of the death of the petitioner's father. In view of the same, the application of the petitioner was rejected, mentioning G.O.Ms.No.120, Labour Welfare Department, dated 26.06.1995 and prayed for dismissal of the Writ Petition.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the first respondent, by the proceedings dated 03.12.2012, has directed the other respondents to look into the matter and pass suitable orders.

5.Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials on record carefully.

6.From the materials on record, it is seen that on the date of the death of the father of the petitioner, the petitioner was minor. Therefore, the petitioner's mother gave representation on 13.11.1996, seeking for appointment to the petitioner's sister. The third respondent called the petitioner's mother on 20.11.1996 to submit all necessary certificates. The petitioner's mother has produced all the certificates. In spite of the same, no order was passed, either providing employment or rejecting the request of the petitioner. Meanwhile, the petitioner's sister got married. On 09.11.2006, the petitioner gave representation and again on 15.11.2012. The first respondent, by the order dated 03.12.2012, has directed the other respondents to look into the matter and pass suitable orders. In spite of the instructions of the first respondent, no order was passed. This Writ Petition was filed on 13.10.2017. On that date,



Mr.A.K.Baskara Pandian, learned Special Government Pleader took notice for the respondents 1 and 2 and Mr.R.Prabhu Ramachandran, learned counsel took notice for the third respondent and this Court has directed the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent to file counter and adjourned the matter by four weeks. The third respondent, after taking notice through his counsel, in a hurried manner, has rejected the representation of the petitioner, on 05.12.2017 and filed counter affidavit before this Court on 27.11.2018, stating that the petitioner has suppressed the material facts and has approached this Court without clean hands. The said contention mentioned in the counter affidavit is contrary to the facts. The third respondent is deliberately, trying to mislead the Court, when the order, rejecting the representation, was passed on 05.12.2017.

7.This Court is of the considered opinion that the third respondent has not considered the representation of the petitioner's mother in the year 1996 and even after calling for the petitioner's mother for production of the certificates. The petitioner has made representation on 09.11.2006 and again on 15.11.2012 and 14.08.2017. However, no order was passed on the representations of the petitioner. It is well settled that appointment on compassionate ground is given, when the family of the deceased employee is in penurious circumstances. The petitioner's father worked as Park Musthoor in the third respondent office. The third respondent has not denied the said fact and has rejected the application of the petitioner on the ground that the petitioner's family is not in penurious circumstances. Having kept the application of the petitioner in the cold storage from the year 1996, now, it is not open to the third respondent to say that the petitioner has not made any application, within three years from the date of death of his father.

8.For the above reasons, this Writ Petition stands allowed, directing the third respondent to provide suitable employment to the petitioner, within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar



To

1.The Director of Panchayat,
Panchayat Directorate Office,
Ezhilagam 6th Floor, Cheppakkam,
Chennai-600 005.

2.The District Collector,
Madurai District.

3.The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

+1 CC to M/s.T.S. MOHAMED MOHIDEEN, Advocate (SR-90447[F] dated
30/09/2019)

+1 CC to M/s.C. SENTHIL MURUGAN, Advocate (SR-90483[F] dated
30/09/2019)

+1 CC to M/s.GP (SR-91204[F] dated 03/10/2019

W.P.(MD) No.19189 of 2017
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