

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14408 of 2011

M.Saraswathy

... Petitioner

vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai -1.

2.The Traffic Manager,
Chennai Port Trust,
Rajaji Salai, Chennai - 1.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents to provide appointment on compassionate ground to the son of the Petitioner, M.Lakshmikanthan S/o late K.Munusamy, who has studied 10th standard, arising out of the death of the Petitioner's husband on 18.10.1994 as Gang Mazdoor, T.No.3267/93 in the Traffic Department of the Chennai Port Trust, within the time frame to be stipulated by this Hon'ble Court.

For Petitioner : Mr.T.S.Rajamohan

For Respondents 1 & 2: No appearance
for Mr.C.Lakshmipathy

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to provide appointment on compassionate ground to her son viz. M.Lakshmikanthan, on account of death of her husband viz. Late K.Munusamy, who died on 19.10.1994, while in service of the Office of the Respondents, as Gang Mazdoor vide T.No.3267/1993 in the Traffic Department.

2. According to the Petitioner, she studied only upto 3rd Standard and she forwarded her application dated 05.04.1995 to the 1st Respondent seeking appointment on compassionate grounds. By a letter dated 18.09.1995, the Secretary, Chennai Port Trust informed the Petitioner that, she will be called

upon, when any vacancy arises commensurate to her educational qualification. At that point of time, the Petitioner's second son viz. M.Lakshmikanthan, was studying 9th Standard in Government High School, Chengalpattu and on his completion of 10th Standard, the Petitioner forwarded his Mark Certificate and Transfer Certificate to the Respondents.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. Admittedly, the Petitioner herein is receiving Widow pension and that cannot be a ground to deprive appointment on compassionate grounds, as pension is payable for the services rendered by a person while in service. The Petitioner's husband died on 19.10.1994 and the Petitioner has made a representation to the 1st Respondent on 05.04.1995. If, it is the grievance of the Petitioner that, the Respondents have not considered her claim for compassionate appointment, she could have knocked at the doors of this Court immediately. Having slept over for more than 15 years, she has approached this Court only in 2011.

5. At this juncture, it is worth referring to the Apex Court decision rendered in the case of Bhawani Prasad Sonkar vs. Union of India, reported in (2011) 4 SCC 209, wherein, it is held as under:

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's

family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

6. In view of the ratio laid down by the Apex Court that, an application for compassionate employment must be preferred without undue delay, this Court finds no merit in the present Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

- 1.The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai -1.
- 2.The Traffic Manager,
Chennai Port Trust,
Rajaji Salai, Chennai - 1.

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AJS(CO)
CB(29/10/2020)

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