

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :07.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 17813 OF 2013

R.Amudha

.. Petitioner

- Vs -

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai -3.

2. The Stadia Officer,
Corporation of Chennai,
Ripon Buildings, Chennai -3.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, to direct the respondents to appoint the petitioner under compassionate grounds within a time frame as may be stipulated by this Court.

For Petitioner : M/S.Y.Bhuvanesh Kumar

For Respondents: Mr. R.Gopinath

ORDER

This writ petition has been filed by the petitioner, to direct the respondents to appoint the petitioner under compassionate grounds within a time frame as may be stipulated by this Court.

2.The brief facts of the case is that the petitioner's father was employed under the respondents as Thozhilai and he joined the service in the year 19.4.1974 and was due to retire on 1.7.2009. While he was working as Thozhilai, at Indoor Stadium, N.R.Centre, Nehru Stadium, Chennai, he died in harness on 25.2.2001 leaving behind his mother, 3 sons and 2 minor daughters including the petitioner as his legal heirs. After the demise of the petitioner's father, her mother is receiving family pension. The petitioner states that on the date of death of his father, the petitioner's elder brother one Ashok Kumar had filed an application seeking appointment on compassionate ground but he did not follow it up the same. Subsequently, the

petitioner's another elder brother one Kumaran had applied for appointment on compassionate grounds but the 2nd respondent by its proceedings dated 19.6.2008 had rejected the application stating that under compassionate appointments only one member in the family and that too on only one occasion will have to apply.

2.1. It is the averment of the petitioner that both the petitioner's above said brothers had not cared to pursue the case for getting appointment under compassionate grounds as they were not interested and failed to look after the family. In the mean time the petitioner attained majority in the year 2008, and thereafter within 5 years from the date of attaining majority, the petitioner has sent a representation dated 27.3.2013 to the respondents seeking appointment under compassionate grounds by enclosing copies of all necessary documents. Since the said request was beyond 3 years from the date of death of the corporation employee no order was passed on the same, as the same was beyond the period of three years. Challenging the same, the present petition has been filed with the above said prayer.

3. Learned counsel appearing while reiterating the submissions as advanced in the affidavit filed in support of the petition, submitted that the application of the petitioner has not been considered in accordance with law and, therefore, this Court may issue a direction to the respondents to pass orders on the said representation within a particular time frame.

4. Per contra, learned standing counsel appearing for the respondents, while did not refute the contention put forth by the petitioner, however submitted that the application of the petitioner is the third in line and the petitioner's two brothers earlier filed applications, which have been rejected and a categorical reply has been given therein that it is not open to the family of the deceased employee to file one application after another. The application for compassionate appointment has been filed for more than three times as well as after a long lapse of time. Hence as per prevailing rules/instructions, the respondents rejected the request of the petitioner seeking compassionate appointment. In this regard, reliance was placed on the decision of the Division Bench of this Court in WA.NO.3899/2019, where the Division Bench has held that any application beyond the period of three years cannot be entertained.

5. Heard the contentions advanced by the learned counsel on either side and perused the materials available on record.

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after

three years. In this regard, useful reference can be had to the decision of the Division Bench of this Court, in W.A.No.3899/2019, [P. Poongodi vs The Chairman] on which reliance has been placed by the respondents, wherein it has been categorically held that the claim for appointment on compassionate basis must be made without any delay. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

7. In the light of the decision of the Division Bench in Poongodi's case (supra), the present petition is wholly unsustainable and, accordingly deserves to be dismissed. Accordingly, this writ petition stands dismissed. However there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai -3.
2. The Stadia Officer,
Corporation of Chennai,
Ripon Buildings, Chennai -3.

+1cc to Mr.R.Gopinath, Advocate, Sr.No.29407

W.P. NO.17813 OF 2013

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