

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.23003 of 2005

B.Govindaraj

... Petitioner

-vs-

1. State Bank of India,
Chief General Manager,
Local Head Office,
Chennai Circle,
College Road,
Nungambakkam,
Chennai-600 006.

2. Deputy General Manager,
State Bank of India,
Coimbatore Module,
Kurinchi Complex,
State Bank Road,
Coimbatore.

3. Assistant General Manager,
State Bank of India,
Region III, Zonal Office,
Kurinchi Complex,
State Bank Road,
Coimbatore.

4.Branch Manager,
State Bank of India,
RMY Pochampalli Branch,
Pochampalli, Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the concerned records from the 4th respondent, quash the order of the 4th respondent bearing No.Misc-225 dated Nil, communicating the rejection of petitioner's request for compassionate appointment by the competent authority, viz., the 3rd respondent as illegal, arbitrary and contrary to law and consequently, direct the respondents to consider appointing the petitioner in any suitable post on compassionate appointment.

For Petitioner

: Mr.Balan Haridass

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.K.Sankaran

O R D E R

This Writ Petition has been filed, seeking to quash the order of the 4th respondent bearing No.Misc-225 dated Nil, by which the rejection of petitioner's request for compassionate appointment by the 3rd respondent was communicated to him. The petitioner also sought a direction to the respondents to consider, appointing the petitioner in any suitable post on compassionate appointment.

2. It is the case of the petitioner that his father had worked as Head Messenger in the respondent Bank and died on 16.03.2002 in harness and pursuant to his death, the petitioner sought for an appointment on compassionate ground, by way of sending a representation to the 3rd respondent along with all records and certificates. It is the further case of the petitioner that the terminal benefits of the deceased were adjusted towards various loans obtained by him and no money was paid to the family of the deceased employee. In fact, a sum of Rs.1,55,500/- was due to be paid to the respondent Bank and the house loan obtained for purchase of a house has not yet been cleared. It is the grievance of the petitioner that his family is in below poverty line, which is evident from the certificate issued by the Tahsildar and therefore, the petitioner made an application to the 3rd respondent, who is the competent authority, for employment on compassionate ground, which was rejected by the 3rd respondent, stating that his family condition is not under penurious condition. Aggrieved by the same, the petitioner is before this Court.

3. Learned counsel for the petitioner has submitted that nearly two decades have gone-by and that the case of the petitioner needs to be considered for compassionate appointment on humanitarian ground. He has further submitted that the reason given in the impugned order for denial of appointment on compassionate ground is not justified, as the petitioner cannot be deprived of his right to get public employment consequent to the demise of his father.

4. Per contra, learned counsel for the respondents has contended that there is every justification on the part of the respondent Bank in denying the compassionate appointment to the petitioner and at this distant point of time, the petitioner's request for such appointment cannot be considered. That apart, the petitioner had filed yet another Writ Petition in W.P.No.33041 of 2015 and got an order for considering his case for compassionate appointment without disclosing the pendency of this writ petition.

5. In reply to the above, learned counsel for the petitioner has stated that he is not aware of the subsequent writ petition, as he was not the counsel in the said writ petition. However, he has made a vehement plea that since 18 years have already gone by, the Court may consider the case of the petitioner sympathetically.

6. Heard the learned counsel for the parties and perused the material documents available on record.

7. Though I am entirely in agreement with the learned counsel for the petitioner that pendency of the writ petition cannot be a ground to deprive the benefit of compassionate appointment, the fact that the petitioner had suppressed the details with regard to the pendency of the writ petition in the subsequent Writ Petition and obtained an order, cannot be slightly brushed aside. The Hon'ble Supreme Court in the case of S.P.Chengalvaraya Naidu vs. Jagannath, reported in (1994) 1 SCC 1, has observed as under:

"The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property grabbers, tax evaders, Bank loan dodgers, and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation."

8. This Court, in the case of R.Kanagasanthi vs. Tamil Nadu Civil Supplies Corporation, rep. by its Managing Director, No.25, Thambusamy Road, Kilpauk, Chennai 600 0010 and another reported in (2014) 1 LLN 515 (Mad) had elaborately dealt with the issue of compassionate appointment by considering the judgment of the Apex Court in (2010) 11 SCC 661 [State Bank of India and another vs. Raj Kumar] and rendered a finding in favour of the petitioner therein.

9. However the facts of the case in R.Kanagasanthi vs. Tamil Nadu Civil Supplies Corporation (cited supra) stand on a different footing on account of the fact that the request of the petitioner therein was favourably considered on the ground that the employee therein died, when the old scheme was in existence and the application for compassionate appointment was also made in time during prevalence of old scheme and therefore, based on the judgment of the Apex Court, respondents therein were directed to consider the case for appointment. As the petitioner herein has not cared to state to the counsel for the petitioner about the subsequent Writ Petition and its order, he is not entitled to relief on the ground of approaching this Court with unclean hands, by narrating the subsequent events by way of additional affidavit. This Court hopes that State Bank of India will be a model employer and will consider the case of others, who have sought for compassionate appointment based on the old scheme, in case they fall under that scheme, in the light of the observations supra and the petitioner herein, in the

peculiar circumstances of the case, is not entitled to relief. The pendency of Writ Petitions for years together is not on the fault of the litigants and it cannot be quoted against those persons, who are genuinely entitled to the relief.

10. For the foregoing discussions and observations, in the considered opinion of this Court, the Writ Petition lacks merits acceptance and fails. Accordingly, this Writ Petition stands dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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1.The Chief General Manager,
State Bank of India,
Local Head Office,
Chennai Circle,
College Road,Nungambakkam,
Chennai-600 006.

2.The Deputy General Manager,
State Bank of India,
Coimbatore Module,
Kurinchi Complex,
State Bank Road,
Coimbatore.

SS(CO)
CB(07/08/2020)

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