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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3197 of 2014

1.A.Lalitha

2.A.Suresh Kumar

... Petitioners

vs.

1. The Secretary to Government,  
Government of Tamil Nadu,  
Labour & Employment Department,  
Fort St. George,  
Chennai 600 009.

2. The Joint Commissioner,  
Revenue Administration,  
Chepauk,  
Chennai 600 005.

3. The District Collector,  
Vellore District,  
Vellore 9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records relating to the impugned order dated 25.03.2013 in Mu.Mu (A5)/2900/2013 passed by the 3<sup>rd</sup> Respondent, quash the same and consequently direct the Respondents to provide employment to the 2<sup>nd</sup> Petitioner on compassionate ground, in any suitable post.

For Petitioners :M/s.P.C.Hari Kumar for  
M/s.P.C.Hari Kumar Associates

For Respondents :Mr.A.N.Thambidurai,  
Special Government Pleader

O R D E R

Petitioners herein are the wife and son of the deceased Annamalai, who died in harness on 02.02.2003, while he was working as Village Assistant in Alanganeri Village, Katpadi Taluk, Vellore District.



2. According to the Petitioners, the 1<sup>st</sup> Petitioner herein applied for job on compassionate ground to the 3<sup>rd</sup> Respondent herein on 20.05.2005, well within a period of three years from the date of demise of her husband. However, no orders were passed on her Application. Thereafter, the 2<sup>nd</sup> Petitioner, who is the son of the deceased employee submitted an Application to the 3<sup>rd</sup> Respondent on 10.12.2007, seeking appointment on compassionate ground. As there was no reply from the 3<sup>rd</sup> Respondent, in continuation of his earlier Application, the 2<sup>nd</sup> Petitioner made further representations on 29.01.2013 and on 15.02.2013.

3. Pursuant thereto, the 3<sup>rd</sup> Respondent passed an order vide proceedings in Mu.Mu (A5)/2900/2013, dated 25.03.2013, without conducting any enquiry and rejected the 2<sup>nd</sup> Petitioner's Application dated 10.12.2007 on the ground that, it has been made belatedly, after a period of three years from the date of demise of the deceased employee. Challenging the same and for a direction to the Respondents to provide employment to the 2<sup>nd</sup> Petitioner on compassionate ground, Petitioners have come up with the present Writ Petition.

4. Learned counsel for the Petitioners submitted that, the 1<sup>st</sup> Petitioner made an Application seeking appointment on compassionate ground on 20.05.2005 well within a period of three years from the date of demise of her husband and hence, the stand of the 3<sup>rd</sup> Respondent in rejecting the Application made by the 2<sup>nd</sup> Petitioner that, it has not been made within the time stipulated, is incorrect.

5. In reply, learned Special Government Pleader appearing for the Respondents submitted that, though the 1<sup>st</sup> Petitioner claims to have made an Application to the 3<sup>rd</sup> Respondent on 20.05.2005 seeking appointment on compassionate ground, she has not annexed a copy of the same in the Typed Set of Papers. According to him, when there is no proof to the effect that, the 1<sup>st</sup> Petitioner has made an Application to the 3<sup>rd</sup> Respondent within the time stipulated, Petitioners are not entitled to the relief sought for. Hence, he prayed for dismissal of the Writ Petition.

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

7. In the case of Bhawani Prasad Sonkar vs. Union of India, reported in (2011) 4 SCC 209, the Apex Court has clearly held that, an Application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time. For better appreciation, relevant portion of the said judgment is extracted hereunder:



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"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."

8. In the case on hand, admittedly, there is no proof to the effect that, the 1<sup>st</sup> Petitioner made an Application to the 3<sup>rd</sup> Respondent on 20.05.2005, seeking appointment on compassionate ground. In such circumstances, this Court has to construe that, no Application has been made by the Petitioners seeking compassionate appointment, within the time stipulated.

9. Thus, in view of the foregoing and in view of the ratio laid down by the Apex Court in the decision cited supra, that, an Application for compassionate employment must be preferred without undue delay, this Court finds no reason to interfere with the order impugned in the present Writ Petition.



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Accordingly, this Writ Petition stands dismissed, as devoid of merits. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1.The Secretary to Government,  
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2.The Joint Commissioner,  
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3.The District Collector,  
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Vellore 9.

+1cc to M/s.P.C.Harikumar & Associates, SR.34957

W.P.No.3197 of 2014

SRA(CO)  
CB(10/12/2020)