



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.8007 of 2020

G.Ayyanar

...Petitioner

Vs

1.The District Collector,
Trichy, Trichy District.

2.The Assistant Director,
S.Kannanoor Municipality,
Trichy Zone,
Trichy District.

3.The Executive Officer,
S.Kannanoor Special Municipality,
Trichy District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with the impugned order of rejection of Compassionate appointment vide its impugned proceedings in Na.Ka.No.93/2020 A1 dated 20.03.2020 and quash the same and consequently direct the respondents to appoint the petitioner to a post commensurate with his qualification on the ground of compassionate appointment as per the representation dated 10.02.2020.

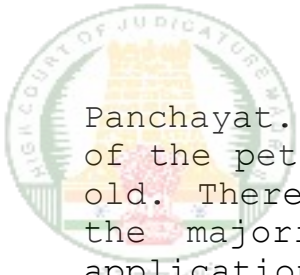
For Petitioner : Ms.S.Mahalakshmi
For Respondent : Mr.A.Thiyagarajan,
Government Advocate

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the records of the impugned rejection order passed by the 3rd respondent in Na.Ka.No.93/2020 A1 dated 20.03.2020 and quash the same and consequently direct the respondents to appoint the petitioner on the ground of compassionate appointment as per his representation dated 10.02.2020.

2.The short facts which are required to be noticed for the disposal of this Writ Petition are as follows:-

The petitioner's father one S.Govindhan was working as Sanitary Worker at the second and third respondents Town



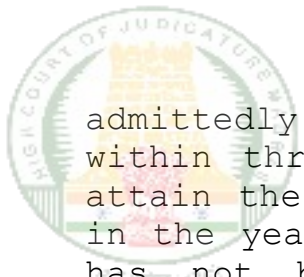
Panchayat. While so, he died in harness on 22.03.1995. At the time of the petitioner's father death, the petitioner was only 14 years old. Therefore, he waited to reach the majority and on reaching the majority in the year 1999, immediately he had given an application on 30.08.2000 to the respondents seeking compassionate appointment for him in lieu of the death of his father. Under consideration of the said application dated 30.08.2000, the respondents not immediately have come forward to give any compassionate appointment. Therefore, the petitioner had once again given his application on 28.08.2006 to the first respondent District Collector, for which, the said application seems to have been forwarded to the second respondent for appropriate action, who in turn has replied to the petitioner on 29.08.2006 with the following contents:-

“திருச்சிராப்பள்ளி மாவட்டம், ச.கண்ணனார் பேருராட்சியில் துப்புரவு பணியாளராக பணிபுரிந்த 22.03.1995-ல் பணியிடை இறந்த திரு.கோவிந்தன் என்பவரது வாரிசுதாரராகிய மனுதாரர் தனக்கு கருணை அடிப்படையில் பணிநியமனம் கோரியுள்ளார். கருணை அடிப்படையிலான பணிநியமனம் குறித்து அரசின் துரிதமுறை பெறப்பட்டதும் மனுதாரரின் கோரிக்கை குறித்து உரிய விதிமுறைகளின்படி பரிசீலிக்கப்படும் என்பதை மனுதாரருக்கு தெரிவிக்கப்படுகிறது.”

Thereafter also, since nothing was forthcoming from the respondents, the petitioner keep on giving applications/reminders on 20.05.2010, 15.07.2013 and lastly on 10.02.2020. Now considering the last application, the second respondent through the impugned order dated 20.03.2020 has passed an order rejecting the request of the petitioner for seeking compassionate appointment by stating the reason that as per the Government rule, which is in vogue, the legal heir of the deceased Government servant must have made an application within three years period from the date of death of the employee and in this case, within three years period since the application was not made, the request of the petitioner to seek for compassionate appointment cannot be considered. Therefore, accordingly, the said request was rejected through the impugned order. Challenging the same, the present writ petition has been filed.

3. Heard Ms.S.Mahalakshmi, learned counsel appearing for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondents.

4. The learned counsel for the petitioner would submit that at the time of the death of his father, the petitioner



admittedly was a minor. So, a minor could not make an application within three years. But, it take only three years to reach or attain the majority. Since he attained the majority, immediately in the year 2000, he has made an application and that application has not been considered. As no order even rejecting that application was passed by the respondents, again, an application was given to the District Collector/1st respondent. In response to the same, the second respondent communicated that after getting necessary instructions from the Government, the request of the petitioner would be considered. Thereafter also, several applications/reminders have been given. Lastly, now, by the impugned order, the second respondent has rejected the request of the petitioner on the aforesaid reason. Therefore, the learned counsel would submit that, indulgence has to be shown against the impugned order and in this regard, direction has to be given to reconsider the request of the petitioner on merits.

5. Heard Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondents, who would rely upon the counter affidavit filed by the third respondent and has stated that, the father of the petitioner died on 22.03.1995, however the first application submitted by the petitioner only on 30.08.2000, which itself is beyond the limitation of 3 years and at the time of his father's death, since he was admittedly 14 years old, he could not make any application, accordingly he did not make any application and thereafter, the belated application of the year 2000 cannot be considered, in view of the relevant government orders which are in vogue. Therefore, the rejection order does not require any interference.

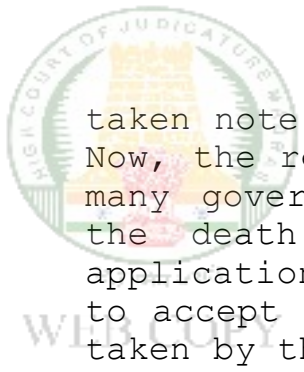
6. I have considered the submissions made by the learned counsel for the parties and have perused the material produced before this Court.

7. Admittedly, at the time of death of the petitioner's father in 1995, he was only 14 years old, thereafter, he attained majority only in 1999. Therefore, immediately on 30.08.2000, he filed an application and the application dated 30.08.2000 filed by the petitioner is admitted by the respondent. Therefore, there could be no reason for rejecting the earlier application filed by the petitioner on 30.08.2000, which is immediately after attaining majority. As admitted by the respondents, the petitioner was only 14 years of old at the time of his father's death. Therefore, he cannot be expected to make application. After he made an application in 2000, he had to wait for several years and in between several applications/reminders have been made and one such application was made to the first respondent/District Collector on 28.08.2006, the same having been considered by the 2nd respondent on 29.08.2006 and the contents of



the same has already been extracted, where the 2nd and 3rd respondents have stated that, after getting instructions from the Government, the request of the petitioner would be considered. Even thereafter, for several years nothing was forthcoming. However, the petitioner keep on representing to the respondents by sending application after application or representation after representation or reminder. Now, after 20 years, the present order has been passed dated 20.03.2020 stating that the application filed by the petitioner itself is belated i.e. beyond three years period, therefore, the same cannot be considered.

8. On a perusal of the said reason cited in the impugned order, this Court is of the view that, the said reason now cited after 20 years cannot be countenanced, because, the compassionate appointment scheme itself is against the regular rules and procedures for recruitment/appointment of Government Servants, where in violation of regular rules and procedure, compassionate appointment are being made in order to bail out the family which is in penurious and indigent circumstances, because of the sudden demise of the head of the family or the breadwinner of the family. When that being the position, an young boy of 14 years, who has been left out by his father, when he died in the year 1995 cannot be expected to make an application immediately. However, the boy became major after three years i.e. in 1999. Thereafter, immediately, the petitioner had made an application in August 2000 and the said application considered to be the earliest one as admitted by the respondents. Therefore, the respondents could have acted upon on the said application immediately. They have not seems to have acted upon the said application of the year 2000 and in the year 2006, when second application was given to the 1st respondent, the same had been responded by the second and third respondents stating that, after getting necessary instructions from the Government, the request of the petitioner would be considered and even thereafter, for several years, nothing was forthcoming, despite several subsequent communications, requests/representations/reminders having been sent by the petitioner and after 20 years, at last, now the impugned order has been passed stating the aforesaid reason that, the application filed by the petitioner was beyond time limit. This kind of attitude on the part of the respondents employer cannot be appreciated and accepted by this Court. The Government, being a model employer, must have a vision for all social welfare measures, which include the scheme of compassionate appointment which is being envisaged and adopted and is in progress in Government employment, for the aforesaid reason of bailing out the family from indigent circumstances, because of the death of the head of family. When that being the position, when an application was filed 20 years back, no disposal has been given and when second application was given some years after, which was also



taken note of, but, no final decision has been taken for 20 years. Now, the reason has been invented and has been stated by citing so many government orders, which have been issued definitely after the death of the father of the petitioner as well as the application of the petitioner. Therefore, this Court is not able to accept the reasons cited in the impugned order and the defence taken by the respondents in the counter affidavit.

9. In the result, this Court is of the considered view that the impugned order is liable to be interfered with. Accordingly, the impugned order is quashed and the matter is remanded back to the respondents for reconsideration. While reconsidering the same, the respondents shall verify and get a satisfactory report from the Tahsildar concerned as to whether the family of the petitioner is still in indigent circumstances and if such satisfactory report is obtained from the Tahsildar concerned, certainly the respondents can consider the application of the petitioner for grant of compassionate appointment without insisting upon the time limit of 3 years. The Tahsildar concerned, if any such request is made by the respondents to have an enquiry and report about the penurious and indigent circumstances of the family of the petitioner, shall enquire the said aspect, where opportunity of being heard should be given to the petitioner and accordingly, send the report to that effect to the respondents for further action. Needful as indicated above shall be undertaken by the respondents, within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, the Writ Petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vrn/arul

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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



To

1.The District Collector,
Trichy, Trichy District.

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Order made in
W.P. (MD) No.8007 of 2020
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SCR(CO)
KM (14.10.2020) 6P 4C