BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	28.02.2020
Pronounced on	29.06.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD) No.6502 of 2016

R.Raja Selvam ...Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Commercial Tax and Registration Department,
St.Fort George,
Chennai-600 009.

2.The Inspector General of Registration,
Registration Department,
Chennai-600 028.

3.The District Registrar,
Karaikudi,
Sivagangai District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to to call for the record relating to the impugned order in Kaditha.No.3929/M2/2015-1 dated 06.04.2015 passed by the first respondent r/w the order passed by the second respondent in Mu.Mu.NO.31022/K2/2014 dated 03.12.2014 and to quash the same and consequently, direct the respondent to appoint the petitioner under the compassionate ground.

For Petitioner : Mr.T.Antony Arul Raj
For Respondents : Mr.V.Anand, GA

O R D E R

The petitioner's request for compassionate appointment came to be rejected on the ground that he had not made an application seeking for such appointment, within a period of three years from the date of death of his father, who was employed as an Office Assistant in the respondent Department at the time of his death on 14.11.2008. The impugned order dated 06.04.2015 passed by the first respondent is put under challenge in the present Writ Petition.

2. Heard Mr.T.Antony Arul Raj, learned counsel for the petitioner and Mr.V.Anand, learned Government Advocate appearing on behalf of the respondents.

3. The Hon'ble Division Bench of this Court had earlier in an order passed in W.A.(MD)No.1400 of 2011 dated 16.12.2015 in the case

of ***S.Velraj Vs. The Superintendint Engineer, TNEB, Tirunelveli and another***, had held that three years limitations prescribed for making an application for compassionate appointment cannot be applied in a strait jacket formula and each and every case has to be approached differently, based on the facts. The Scheme for appointment on compassionate ground to the children of the deceased employee is a welfare scheme, to tide over the financial constraints of the bereaved family due to the sudden demise of the breadwinner of the family.

4. In the present case, the petitioner's father died on 14.11.2008, while he was working as an Office Assistant in the respondent Department. At the time of his death, he was survived by his wife and three sons, among whom, one son was a minor. The petitioner's mother claims to have made an application seeking for compassionate appointment on 19.03.2015, for the petitioner. Though the application was made beyond the period of three years from the date of death of the employee, the Hon'ble Division Bench in *Velraj's case (supra)* had held that three years period stipulated cannot be taken as a hard and fast rule and that, each case requires to be considered on the facts and circumstances. By applying the ratio laid down by the Hon'ble Division Bench in the aforesaid decision, this Court is of the view that, petitioner's case requires to be considered positively.

5. The facts involved in the present case is that one son of the deceased employee was a minor at the time of his father's death. This Court in W.P.No.26343 of 2012 dated 28.11.2016 in the case of **W.P.No.26343 of 2012** dated **23.11.2016** in the case of **M.Sathish Kumar vs. the Director of School Education and others**, had placed reliance on two orders of the Hon'ble Division Benches of this Court and ultimately held that, when an application is made within three years from the date of attaining majority, the claimant would be entitled for appointment on compassionate grounds. The relevant portion of the order reads as follows:

> *"6. If the above proposition is applied to the present facts of the petitioner, then the petitioner would be entitled for an appointment on compassionate ground, since the application has been made within a period of three years from the date of attaining majority. Since this application for compassionate appointment was rejected on the sole ground that the same was time barred and by applying the ratio in the decision of the Division Bench, the impugned order cannot be sustained and is liable to set aside. Accordingly, the impugned order dated 31.01.2012 passed by the third respondent is quashed.*
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> *7. The respondents are directed to forthwith issue an appropriate appointment order to the petitioner based on his qualifications and other*

relevant criterias within a period of eight weeks from the date of receipt of copy of this order."

6. In the aforesaid decisions of this Court, it is held that a minor legal heir would be entitled to seek for appointment for them within a period of three years from the date, he attains majority. While that being so, the appropriate recourse available to the respondent on this aspect would be to consider that atleast one of the legal heirs of the employee was a minor at the time of his death and thereby, the request for compassionate appointment could have been considered in favour of such a legal heir. The object of extending compassionate appointment is to tide over the financial constraint of a family due to the sudden demise of the breadwinner of the family and looking into that fact, the respondents ought to have taken these objects into consideration, instead of rejecting the petitioner's claim on the ground that it is time barred.

7. For all the foregoing reasons, the impugned order of the first respondent dated 06.04.2015 and the order of the second respondent dated 03.12.2014 are set aside and the matter is remanded back to the first respondent herein for reconsideration. The first respondent herein shall take into consideration all the observations made in this order and thereby, pass an appropriate speaking order on the petitioner's mother's representation dated 19.03.2015, atleast within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. No costs.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

DP/SM

To

1.The Secretary to Government,Government of Tamil Nadu,
Commercial Tax and Registration Department,St.Fort George,
Chennai-600 009.

2.The Inspector General of Registration,
Registration Department,Chennai-600 028.

3.The District Registrar,
Karaikudi, Sivagangai District.

Pre-Delivery order in
W.P.(MD) No.6502 of 2016
29.06.2020

AP(17/07/2020) 3P 4C