



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.26417 of 2019

and

WMP(MD)Nos.22826 and 22827 of 2019

P.Sathya

... Petitioner

vs.

1)The Secretary to Government,
Municipal Administration & Water Supply Department,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.

2)The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.

3)The Commissioner,
Usilampatti Municipality,
Usilampatti, Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of 3rd respondent in Na.Ka.No.2777/2018/C1 dated 22.10.2018 quash the same and consequently direct the respondents herein to consider the petitioner's application dated 15.02.2013 for compassionate appointment for the death of her mother Pavunthai who died on 05.10.2011 employed as Sanitary Worker in 3rd respondent within a reasonable time on merit and in accordance with law.

For Petitioner	: Mr.K.Appadurai
For R1 & R2	: Mr.M.Karuppasamy Pandian Government Advocate
For R3	: Mr.K.Mahendran

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of 3rd respondent in Na.Ka.No.2777/2018/C1 dated 22.10.2018 quash the same and consequently direct the respondents herein in consider the petitioner's application dated 15.02.2013



for compassionate appointment for the death of her mother Pavunthai who died on 05.10.2011 employed as Sanitary Worker in 3rd respondent within a reasonable time on merit and in accordance with law.

2.The petitioner would submit that her mother Pavunthai was employed as Sanitary Worker and brought into time scale in 2009. The petitioner's brother was also appointed as Sanitary Worker under direct recruitment and living separately with his family. According to the petitioner, her husband deserted her with two children and her mother died leaving behind the petitioner, her two children and the unemployed father. Subsequently, the father of the petitioner also died in 2014. According to the petitioner, she has submitted her application for compassionate appointment on 15.02.2013 and reminders were sent on 10.07.2015 and 01.08.2016 and she was directed to produce no objection certificate from his family members and she produced the same on 25.08.2017. Since there was no response, she submitted a request to the District Collector, Madurai, on 29.08.2017 and as there was no response, she filed W.P(MD)No.18722 of 2018 and this Court, by order dated 28.08.2018 gave a direction to consider her application dated 15.02.2013 seeking compassionate appointment. Thereafter, the 3rd respondent passed the present impugned order dated 22.10.2018 stating that the application was not filed within three years from the date of death of the petitioner's mother and also stated that her brother is employed as a Sanitary Worker in the same Municipality. As against the said order, this writ petition has been filed.

3.The specific stand of the respondents in the counter is that the petitioner has not submitted any application for compassionate appointment within three years from the date of demise of her mother and the first application has been made by the petitioner on 29.08.2017 on the grievance day before the District Collector, whereas, her mother died as early as in 2011. Thus, the respondents would pray for dismissal of the above writ petition.

4.Heard the learned counsel for the petitioner as well as the respondents.

5.This Court directed the petitioner to produce the proof to show that the submission of the petitioner's application was within the above said three years. Learned counsel for the petitioner would state that since the petitioner submitted her application in person, he is not able to produce any acknowledgment therefor.



6.The Tamil Nadu Government provided employment on compassionate ground to the legal heirs of the deceased Government servant, without reference to limitation, until the order G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995 was passed. It is stated that G.O.Ms.No.120, Labour and employment, dated 26.06.1995 has prescribed the time limit of three years to make an application for compassionate appointment, due to the death of the Government Servant. The 3 years limitation is applied only where the death of the Government servant is after 26.06.1995 and in the case of death of the Government Servant prior to 26.06.1995, no limitation is followed by the Government in providing compassionate appointment. It is clarified by the Government in Letter No.39924/Q1/95, Labour and Employment department, dated 11.10.1995 that prescription of 3 years limitation period in G.O.Ms.No.120, dated 26.06.1995 is applicable only in the case of the compassionate appointment to the Government Servants who died on or after 26.06.1995. In the present case, the death is in 2011 and the first application is 2017 beyond the three years period.

7.The Hon'ble Supreme Court also in the case of **Government of India vs. P.Venkatesan (C.A.No.2425 of 2019 dated 1st March 2019)** in deprecate terms has held that the compassionate employment cannot be granted after a lapse of reasonable period which must be specified in the Rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered, whatever the lapse of time and after the crisis is over.

8.Therefore, I am not inclined to interfere with the impugned order. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar(CS)

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To

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Usilampatti, Madurai District.

+1 CC to M/s.K.MAHENDRAN, Advocate (SR-10847[F] dated
10/03/2020)

+1 CC to M/s.K.APPADURAI, Advocate (SR-11078[F] dated
11/03/2020)

ORDER MADE IN
W.P(MD)No.26417 of 2019
DATED : 10.03.2020

SBS (CO)
TR(20.03.2020)4P 6C