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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.1866 OF 2020

AND

W.M.P.NO.2182 OF 2020

R.Vishnupriyan

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Social Welfare,
2nd Floor, Panagal Building,
Saidapet, Chennai - 600 015.
3. The Child Development Project Officer,
Project-III, Kandamangalam Union,
Villupuram District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in A.Mu.Sa.Ka.No.31700/Niru.4(3)/2017 dated 07.02.2018 and to quash the same and consequently directing the respondents to pass orders of appointment of petitioner on compassionate grounds in any suitable post, with all consequential and other attendant benefits.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.K.V.Sajeev Kumar,
Government Counsel



ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

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2. The petitioner's mother, while employed as a Rural Welfare Officer Grade-II in the office of the Child Development Project, Kandamangalam Union died in service on 26.03.1998. The petitioner herein is her son, who claims to have given an application seeking for compassionate appointment on 19.05.2010.

3. Incidentally, after the petitioner's mother had died, his grand mother had made an application on 02.01.2001 seeking for compassionate appointment on behalf of the petitioner, at which point of time, the petitioner was aged about 8 years, since he was born on 17.04.1992, as per the petitioner's transfer certificate.

4. The second respondent herein, through the impugned order dated 07.02.2018, had rejected the petitioner's request, on the ground that the petitioner was a minor when the 3 year period from the date of death of the employee had expired and since the application was belatedly made after 12 years, it is unacceptable.

5. The issue as to whether, the respondents are justified in claiming that an application requires to be made within a period of 3 years, when such an applicant is a minor at the relevant point of time, came up for consideration before the Hon'ble Division of this Court in the case of S.Velraj Vs. The Superintendent Engineer and another and the Hon'ble Division Bench, in its order dated 16.12.2015 passed in W.A.No.1400 of 2011, had set aside the order of rejection, by holding that the requirement for making an application by a minor at the relevant point of time, is not justifiable. The relevant portion of the order reads thus:-

"3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate



Welfare was finding it difficult to process the request of the petitioner with regard to compassionate appointment.

9. Apparently, the counter affidavit is to the effect that the respondents have condoned their original claim in the impugned order that the petitioner has belatedly made an application for compassionate appointment. However, since a decision has now been taken to process the petitioner's application and such process has now been hampered owing to non-production of original documents, it would be appropriate to direct the petitioner to produce the required original certificates before the respondents.

10. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to produce the required original documents before the authorities.

11. In view of the specific stand taken by the respondents in the counter affidavit that the petitioner's application could be processed if the original documents are submitted and in the light of various decisions of this Court that the respondents cannot deny compassionate appointment either on the ground that the minor did not make an application within 3 years from the date of death of the employee or that the application made, after the minor had become major, is belated, it would be appropriate to direct the petitioner to submit all the original documents supporting his claim for compassionate appointment with a consequential direction to the respondents to consider his claim.

12. In the result, the impugned order passed by the second respondent dated 07.02.2018 is quashed. Consequently, there shall be a direction to the petitioner to submit all the required original documents to the second respondent, as expeditiously as possible, and on receipt of such original documents, the second respondent shall consider the same, in the light of the observations made by this Court and pass positive orders granting an order of appointment on compassionate grounds to the petitioner, atleast within a period of 3 months therefrom.

13. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk



To

1. The Secretary to Government,
State of Tamil Nadu,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Social Welfare,
2nd Floor, Panagal Building,
Saidapet, Chennai - 600 015.
3. The Child Development Project Officer,
Project-III, Kandamangalam Union,
Villupuram District.

+1cc to the Government Pleader, S.R.No.35533

W.P.NO.1866 OF 2020 AND
W.M.P.NO.2182 OF 2020

PP(CO)
PBS/10/08/2021