

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM :  
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2769 of 2021

S.Prakash Kumar

... Petitioner

Vs.

1. The District Collector,  
Kancheepuram District,  
Office of the Collectorate,  
Kanchipuram District.
  2. The Block Development Officer,  
Achrapakkam Panchayat Union,  
Acharapakkam,  
Chengalpet District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the 1<sup>st</sup> Respondent herein and to quash the impugned order of the 1<sup>st</sup> Respondent in Na.Ka.No.479/2020/Sa.U.Thee/Pa.01, dated 30.12.2020 and direct the 1<sup>st</sup> Respondent to consider the Petitioner's Application dated 21.01.2008 for compassionate appointment.

For Petitioner : Mr.M.Balasubramanian

For 1<sup>st</sup> Respondent : Mr.R.A.S.Senthil Vel,  
Additional Government Pleader

For 2<sup>nd</sup> Respondent : Mr.P.Chinnadurai

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the impugned order dated 30.12.2020 passed by the 1<sup>st</sup> Respondent in Na.Ka.No.479/2020/Sa.U.Thee/Pa.01, and for a direction to the 1<sup>st</sup> Respondent to consider his Application dated 21.01.2008 for compassionate appointment.

2. According to the Petitioner, his father, who served as an Organiser in Nutritious Meal Scheme, Gudalur Panchayat Union Middle School, died intestate on 23.11.2007, while in service. Thereafter, the Petitioner applied for compassionate appointment

on 21.01.2008 to the 1<sup>st</sup> Respondent with necessary particulars. Since there was no response to his Application, the Petitioner sent a complaint letter dated 19.06.2020 to the Hon'ble Chief Minister's Cell that, the matter is pending for 12 years. Thereafter, vide letter dated 07.08.2020, the 1<sup>st</sup> Respondent sent a letter to the 2<sup>nd</sup> Respondent seeking particulars and a copy of the said communication is said to have been marked to the Petitioner. However, the 1<sup>st</sup> Respondent rejected the Petitioner's request vide communication dated 30.12.2020 stating that, the deceased Sundaram has got a female heir viz. Charumathi and that, her Application may be considered for compassionate appointment. It is the case of the Petitioner that, his sister Charumathi is married and is no longer in his family and the question of asking her to apply after 13 years of death of his father, is nothing but a colourable exercise of power. Hence, the impugned order of the 1<sup>st</sup> Respondent is liable to be quashed.

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

4. Admittedly, the Petitioner has made an Application to the 1<sup>st</sup> Respondent seeking appointment on compassionate ground, on 21.01.2008, immediately after his father's death. At the time of his father's death, the Petitioner's brother and sister got married and were living separately. It is not in dispute that, the Petitioner has been taking care of his mother after his father's death. When the Petitioner has complied with the requirements of seeking compassionate appointment, by making an Application within the stipulated period, Respondents ought to have taken a decision on his Application immediately. Without doing so, rejecting his Application after 12 years, is certainly unfair. Undoubtedly, there is no fault on the part of the Petitioner.

5. In a similar circumstance, the First Bench of this Court in W.P. (MD) Nos.7016 of 2011, batch of cases, by an order dated 11.03.2020, has held as under:

"13. In the light of the above we find that the judgment in the case of A. Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E. Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a

rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above.

14. Where there is a contest between legal heirs, priority should be given to the one who is befitting enough to shoulder the responsibility of destitution of the family. In the event there is a Court intervention, the orders passed or final verdict should be adhered to. In the event of mere pendency, appointment may be given subject to the outcome of the litigation or any orders passed by the Court to that effect."

6. In view of the foregoing, this Court directs the 1<sup>st</sup> Respondent herein to consider the Petitioner's Application dated 21.01.2008 seeking appointment on compassionate ground, and pass appropriate orders on merits in accordance with law, within a period of three months from the date of receipt of a copy of this order.

7. The 1<sup>st</sup> Respondent is further directed to communicate the decision taken on the said representation, to the Petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/Registered Post/Speed Post, so that, there is no need for the parties to file contempt after expiry of the specified period. In case, the Authorities concerned fail to send communication to the parties, they will have to face civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned unserved for one reason or the other, the same shall be kept in the file without opening it for the sake of proof of delivery, so that the parties, at a later point of time, will not take a plea that he/she is not aware of the order of this Court.

The Writ Petition is disposed of with the above direction and observation. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

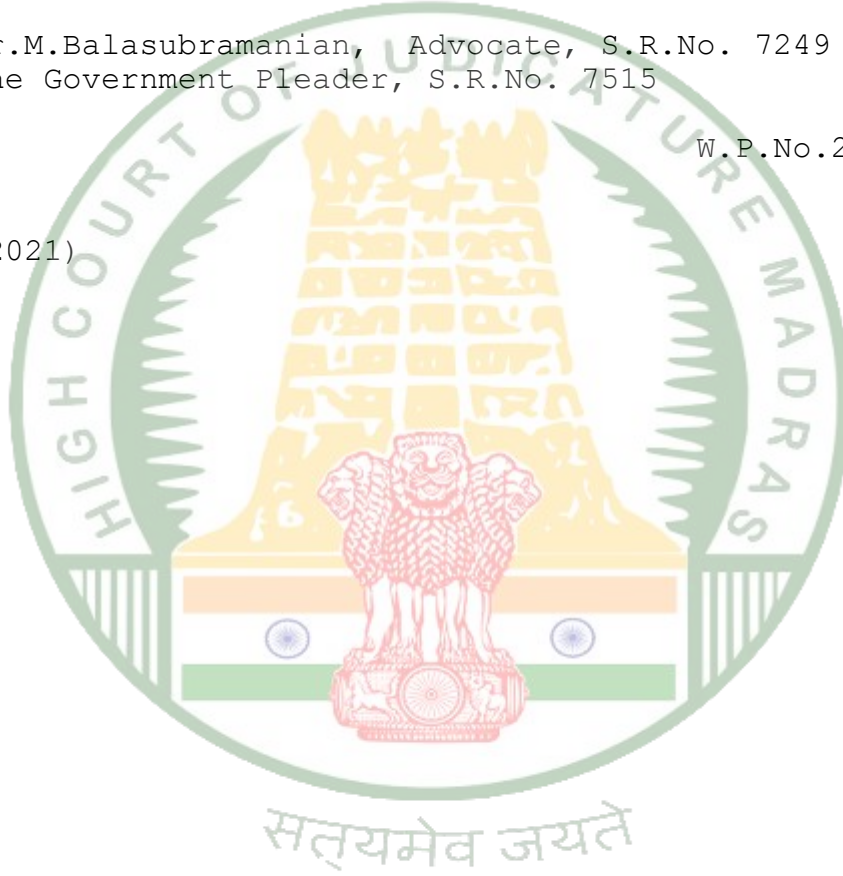
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+1cc to Mr.M.Balasubramanian, Advocate, S.R.No. 7249

+1cc to the Government Pleader, S.R.No. 7515

W.P.No.2769 of 2021

LN (CO)  
GN (07/07/2021)



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