



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24431 of 2015
and MP.No.1 of 2015

Dhanapal

... Petitioner

Vs

1.The Secretary to Government of Tamilnadu,
Department of Revenue,
Fort St. George, Chennai - 600 009.

2.The District Collector,
Salem District, Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records made in Na.Ka.No.44883/2008/A5 dated 19.09.2014 on the file of Second Respondent herein and quash the same as illegal and direct the Respondents to consider the petitioner to the compassionate ground Appointment on humane consideration to secure the ends of justice.

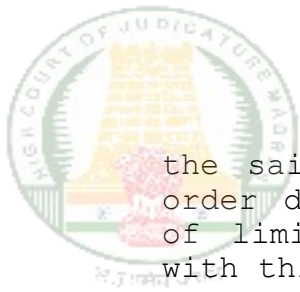
For Petitioner : Mr.R.Sankarasubbu

For R1 & R2 : Mr.J.Ramesh, AGP

ORDER

The relief sought for in this writ petition is to issue a writ of Certiorarified mandamus calling for the records relating to the order in Na.Ka.No.44883/2008/A5 dated 19.09.2014 from the file of the second respondent and to quash the same and consequently direct the respondents to consider the candidature of the petitioner for compassionate appointment.

2.According to the petitioner, his father Kandhan, while working as Village Administrative Officer/Assistant in Virudhachampatty Village, died in harness on 22.05.1999. The elder son of the deceased employee by name Mohan made application for compassionate appointment on 07.01.2000 within the period of limitation, however, he died on 19.03.2004. Thereafter, on completion of age of 18 years, the petitioner applied for compassionate appointment on 26.11.2007. However,



the said application was rejected by the second respondent by order dated 19.09.2014 which is impugned herein, on the ground of limitation. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

WEB COPY

3. Upon notice, a detailed counter affidavit was filed by the respondents, wherein, it is inter alia stated that the application for appointment on compassionate grounds should be made within three years of the death of Government Servant. But, the petitioner applied for the same, after a lapse of nine years. Hence, his application was rejected by the second respondent by order in Na.Ka.No.44883/2008/A5 dated 19.09.2014 stating that the petitioner is not eligible for compassionate ground appointment according to the existing law.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and also perused the materials placed before this Court.

5. The facts remained undisputed are that the petitioner's father died on 22.05.1999, while he was in service; his elder son made application seeking compassionate appointment on 07.01.2000, which is well within the limitation period, however, he died on 19.03.2004 before giving a job on compassionate grounds; subsequently, on attaining the age of majority, the petitioner, being the son of the deceased Government employee, made application for compassionate appointment on 26.11.2007, which was rejected by the second respondent on the ground of limitation.

6. The petitioner stated that his father died while he was in service; his elder brother also died before getting appointment on compassionate ground; the petitioner is a physically challenged person at 45% and his mother is totally deaf and dumb at 100% and the family of the deceased Government employee is suffering from the financial crisis and hence, the petitioner may be provided a job on compassionate grounds.

7. It is to be noted that though the son of the deceased Government employee made application within the period of limitation, he died on 19.03.2004 before getting compassionate appointment. On his demise, on attaining the age of majority, the petitioner made application on 26.11.2007 with a delay of 8 months from the date of expiry of the limitation period. This Court, having regard to the object of the scheme that is to enable the family to get over the financial crisis and provide for livelihood and taking note of the pathetic condition of the petitioner's family, due to the death of his father, is inclined to direct the respondent authorities to reconsider the claim of the petitioner on sympathetic grounds [Refer: National



Hydroelectric Power Corporation v. Namakch, (2004) 12 SCC 487].

8. Accordingly, the order dated 19.09.2014 passed by the second respondent is set aside and the matter is remanded back to the respondent authorities to reconsider the claim of the petitioner seeking compassionate appointment and pass afresh order, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

9. This Writ Petition stands allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Secretary to Government of Tamilnadu,
Department of Revenue,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Salem District, Salem.

+lcc to the Government Pleader, S.R.No.20542

W.P.No.24431 of 2015

UM(CO)
GN(16/07/2021)