

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.26270 of 2015

S.Subha

... Petitioner

..vs..

1.District Collector,  
Ariyalur,  
Ariyalur District.

2.The Revenue Divisional Officer,  
Ariyalur, Ariyalur District.

3.The Tahsildar,  
Jayakondam Taluk,  
Ariyalur District.

... Respondents

Writ 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 orders passed by the First Respondent in O.Mu/A1/11727/2010 dated 16.08.2010 and also the order in Na.Ka.A3/8181/2014 dated 27.04.2015, and to quash the same and consequently to direct the respondents to provide employment to the Petitioner on Compassionate grounds in any suitable post according to the qualification of the petitioner within a time limit to be stipulated by this Court.

For Petitioner : Mr S.Vijayan

For R1 to R3 : Mr.R.S.Selvam, GA

ORDER

Heard both sides and perused the documents enclosed in the typed set of papers.

2.The prayer made in this writ petition is to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned orders passed by the First Respondent in O.Mu/A1/11727/2010 dated 16.08.2010 and also the order in Na.Ka.A3/8181/2014 dated 27.04.2015, and to quash the same and consequently direct the respondents to provide employment to the Petitioner on Compassionate grounds in any suitable post according to her qualification within a time limit to be stipulated by this Court.

3.It is the case of the petitioner that her father Subramanian died on 22.08.1990, while working as Village Administrative Officer in the Revenue Department, leaving behind his daughter / petitioner and wife / her mother as

legal heirs. Within the period of limitation, the Petitioner's mother submitted an application on 30.03.1992 to consider her for appointment on Compassionate grounds. While so, one Parvathi claiming herself to be the second wife of the deceased Government servant, also made an application to the respondents seeking compassionate appointment. On receipt of those applications, the second respondent called the petitioner's mother and the said Parvathi for enquiry and directed them to establish their right and get a decree from the competent civil court. Accordingly, a suit in O.S.No.529 of 1999 came to be filed before the learned District Munsif, Perambalur, which ended in favour of the petitioner's mother on 15.11.2009. Subsequently, she submitted an application on 02.08.2010 seeking employment on compassionate ground to the petitioner, which was rejected by the first respondent vide proceedings dated 16.08.2010, stating that the petitioner has not attained majority at the time of death of her father and she has not made the application within the limitation period of 3 years. On attaining the age of majority, the petitioner made another application to the first respondent seeking compassionate appointment, which was also rejected by order dated 27.04.2015 by the first respondent, on the ground that she has not made the application within 3 years from the date of death of her father, as per G.O.Ms.No.120 Labour and Employment Department dated 26.06.1995. Feeling aggrieved, she has come up with this writ petition for the aforesaid prayer.

4.The learned counsel for the petitioner has specifically contended that when the petitioner's mother has made an application for appointment on compassionate grounds in time as earlier in the year 1992 i.e., within the limitation period of 3 years, which was not considered and she was directed to produce a civil court judgement, by the proceedings of the third respondent dated 07.10.1996 and hence, the subsequent application made by the petitioner seeking compassionate appointment on attaining the age of majority, should be treated as continuous process of the earlier one and she should have been provided a job under the compassionate grounds. Thus, according to the learned counsel, the orders impugned herein, rejecting the claim of the petitioner seeking compassionate appointment on the ground that she has not made the application within a period of three years from the date of death of her father, are erroneous, arbitrary and illegal and the same are liable to be set aside.

5.On the other hand, the learned Government Advocate appearing for the respondents, referring to the Government Order issued in this regard, submitted that the application seeking compassionate appointment should be made within a period of three years from the date of death of the deceased Government servant and hence, the orders impugned herein are perfectly valid in law and the same do not call for any interference by this court.

6. From the pleadings and submissions made and the materials produced on either side, it could be seen that the petitioner's father died on 22.08.1990 while he was in service. The petitioner's mother made application seeking compassionate appointment on 30.03.1992, which is well within the period of limitation period. However, due to rival claims, the said application was not considered and the parties were directed to establish their right and get a civil court decree. After obtaining the decree, the petitioner's mother made application 02.08.2010 seeking appointment to the petitioner, during which time, the petitioner did not attain majority and so, the said application was not considered. Thereafter, on reaching the age of majority, the petitioner made another application dated 09.09.2014, which was rejected on the ground that the application was not made within the limitation period of 3 years, by the order impugned herein.

7. The scheme of compassionate ground appointment is only a welfare measure of the Government to help the legal heirs of the deceased Government servants appreciating their service rendered by them for the Government and it cannot be claimed as a matter of right as it is devised by the Government to help the needy legal heirs whose lives are at distress after the Government servants dies in harness. It is specifically stated that the compassionate ground appointment should be given to the legal heirs of the deceased Government servant subject to eligibility.

8. As per the recent G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020, which supersedes all the earlier orders issued from 1972, the application for the compassionate ground appointment should be submitted within 3 years from the date of death of the Government servant and the minimum age for those eligible for compassionate appointment is 18 years at the time of submitting the application. In the case at hand, the petitioner was minor at the time of death of her father and the case of her mother was not considered due to rival claims and therefore, applying the terms and conditions laid down in the said Government Order, the rejection of the petitioner's application seeking compassionate appointment as time barred, is perfectly correct and the same does not require any interference by this Court.

9. In State of Haryana v. Rani Devi [1996 (5) SCC 308], the Supreme Court was of the view that the appointment on compassionate grounds cannot be made after a lapse of the period specified in the rules as it is not a vested right to exercise at any time in future. That apart, in Chief Commissioner, Central Excise and Customs and others v. Prabhat Singh [(2012) 13 SCC 412], it was held by the Supreme Court that "the Court should not fall prey to any sympathy syndrome of issue direction for compassionate appointment dehors prescribed norms".

10.It is also relevant to point out that the issue involved herein came up for consideration in WP.(MD)No.7016 of 2011 by way of reference to the Full Bench of this Court, which answered the same by order dated 11.03.2020, paragraph 32(a) of which is profitably extracted hereunder:

"Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the Scheme that has been framed by the employer. Any deviation from the Scheme is not permissible."

11.Paragraph 31 of the aforesaid Full Bench decision is with respect to belated submission of application, which reads as follows:

"The Hon'ble Supreme Court in Sanjay Kumar v. State of Bihar, (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application by the dependent of the deceased employee filed after he attains majority cannot be entertained. Considering a belated application will be contrary to the Scheme framed by the Government and will be also contrary to the judgments of the Supreme Court."

12.Therefore, this Court cannot take a different stand contrary to the recent G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020 as well the decision of the Full Bench of this Court in WP.(MD).N0.7016 of 2011 dated 11.03.2020.

13.Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.District Collector,  
Ariyalur, Ariyalur District.

2.The Revenue Divisional Officer,  
Ariyalur, Ariyalur District.

3.The Tahsildar,  
Jayakondam Taluk, Ariyalur District.  
+1 cc to Government Pleader Sr.No. 20178

W.P.No.26270 of 2015

GSM (CO)

A.SK 12/07/2021

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