

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6752 of 2021

S. Suresh

... Petitioner

Vs

1. The Secretary to Government
Family Welfare Department,
Fort St.George, Chennai 600 009.

2. The Director
The Family Welfare
Chennai 600 006.

3. The Deputy Director
Medical Rural Welfare and Family Welfare
Thiruvallur District,
Thiruvallur.

4. The Government Hospital
Thiruthani
Thiruvallur District.

.... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus directing the respondent to give compassionate ground appointment in favour of petitioner.

For Petitioner : Mr.N.Beulah John Selvaraj

For respondents: Mr.P.V.Selvakumar
Additional Government Pleader

ORDER

This writ petition has been filed, directing the respondent to give appointment on compassionate ground in favour of petitioner.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that his father, while serving as an Assistant in the Family Welfare Department, Government Hospital, Thiruthani, Thiruvallur District died in harness on 17.09.2003 and the petitioner is claiming employment on compassionate ground. It is stated that the petitioner made a representation on 09.01.2004, requesting to give him employment according to his educational qualification, for which, the respondent had not given any proper reply. Thereafter, the petitioner made a representation on 10.06.2004 with the similar request after completion of 17 years of age, for which also, there was no reply from the respondents.

4. It is seen that the father of the petitioner died in the year 2003 and though an application is said to have been sent to the Respondents for a job under Compassionate ground within three years from the date of demise of the employee, it is not known as to why the petitioner has woken up from slumber and filed the present Writ Petition after a lapse of nearly 18 years. Admittedly, the mother of the petitioner had not made any such application, seeking public employment on Compassionate ground and there is no rule for appointment of minor.

5. Compassionate appointment cannot be demanded as a matter of right and only to safeguard the family, which is in distress on account of demise of the employee / earning member of the family and to come out from the indigenous circumstances, such appointments are widely made. I have also considered various judgments of the Apex Court and rendered a finding with regard to compassionate appointment in the case of S.Gowtham Balu The Managing Director, Tamil Nadu Electricity Generation and Distribution Corporation, 144, Anna Salai, Chennai - 600 002 and another [W.P.(MD)Nos.4129, 7045, 16624 and 20786 of 2014] decided on 24.09.2018.

6. The Apex Court in the case of Bhawani Prasad Sonkar vs. Union of India reported in 2011 (4) SCC 209, held as under:

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de~hors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

7. As held by the Supreme Court in the case of Bhawani Prasad Sonkar Vs Union of India & Ors (cited supra), the purpose of compassionate appointment is to meet the sudden crisis and there is no need to keep a post vacant to claim as and when required. Therefore, it is clear that the request for appointment on compassionate ground for the child in the womb, by seeking reservation of one post till the child's majority cannot be entertained.

8. In the light of the observations made there in, the petitioner will not be entitled to any relief. The writ petition is dismissed accordingly. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The Secretary to Government
Family Welfare Department,
Fort St. George, Chennai 600 009.
2. The Director
The Family Welfare
Chennai 600 006.
3. The Deputy Director
Medical Rural Welfare and Family Welfare
Thiruvallur District,
Thiruvallur.

4. The Government Hospital
Thiruthani
Thiruvallur District.

+1cc to the Government Pleader, S.R.No.16898

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RSV(CO)
CB(12/07/2021)



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