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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.32139 of 2013

P.Prakash

... Petitioner

..vs..

1. The Government of Tamil Nadu rep. by
Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
College Road, Chennai - 600 006.

3. The District Educational Officer,
Thirupathur,
Vellore District, Vellore.

... 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 of the District Educational Officer, Thirupathur, Vellore District issued in proceedings ATM No.4901/A1/2011 dated 05.08.2010, signed on 08.08.2011, and quash the same and issue consequential direction to the respondents to appoint the petitioner in Government Service in any suitable post on Compassionate grounds.

For Petitioner : Mr.R.Saseetharan

For R1 to R3 : Mr.C.Munusamy, Spl. GP

ORDER

According to the petitioner, his father by name Balasundaram @ Pandian, while working as Night Watchman at Government Boys Higher Secondary School, Katpadi, Vellore District, died in harness on 10.07.2005. At that time, the petitioner was 13 years old and his brother and sister were also minors and his mother was illiterate and hence, no application was made seeking compassionate appointment within the limitation period of three years. Thereafter, his mother made application on 06.08.2009 to the respondents seeking appointment to the petitioner on compassionate grounds, which was rejected by the third respondent, stating that the application for appointment on compassionate grounds shall be made within a period of 3 years and hence, the petitioner's claim could not be considered. Aggrieved over the same, the petitioner has filed this writ petition to quash the same and



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7. Though the learned counsel for the petitioner submitted that G.O.Ms.No.155 dated 16.07.1993 does not prescribe any limitation for making application for appointment on compassionate ground and the claim of the petitioner cannot be



rejected on the ground of limitation, this Court is not inclined to accept the same, in view of the recent Government Order viz., G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, which supersedes all the earlier orders passed from 1972, as per which, the application for the compassionate ground appointment should be made within 3 years from the date of death of the Government servants. Hence, the order passed by the third respondent does not call for any interference.

8.Be it noted, the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis. However, it cannot be claimed as a matter of right and it is traceable only to the service rule permitting such appointment on compassionate basis or a scheme framed for this purpose. 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".

9.It is also apropos 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."

10.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.

11.Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar



To

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
College Road, Chennai - 600 006.

3. The District Educational Officer,
Thirupathur, Vellore District, Vellore.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No. 19828

+1cc to the Government Pleader, S.R.No. 20185

W.P.No.32139 of 2013

GSM(CO)
GN(20/07/2021)