



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.21804 of 2016

K.Praburaj

... Petitioner

..vs..

1. The Secretary to the Govt. of Tamil Nadu
Department of Revenue,
Fort St. George,
Chennai - 600 009.

2. The District Collector of the Nilgiris,
Udhagamandalam - 643 001

... 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 pursuant to the impugned proceedings of the Second Respondent bearing Na.Ka.A-3 No.34822/2007 dated 05.01.2016 after quashing the same and direct the Respondents to consider the case of the Petitioner for the employment assistance on Compassionate grounds pursuant to the application dated 02.02.1999 and subsequent confirmation of genuineness of his educational qualification.

For Petitioner : M/s I.Jenkins William
For R1 & R2 : Mr.S.Thangavel Spl.GP

ORDER

The petitioner has come up with this writ petition to quash the proceedings of the second respondent dated 05.01.2016 and consequently, direct the respondents to consider the case of the petitioner seeking employment on compassionate grounds, pursuant to his educational qualification.

2.The case in brief is as follows:

The Petitioner's father namely J.P.Krishnaraj died in harness on 26.09.1996, while he was working as Village Administrative Officer of Kadanadu Village, Udhagamandalam Taluk, the Nilgiris. At that time, the petitioner and his younger brother were minors. Seeking compassionate appointment in favour of the petitioner, his mother made an application on 02.02.1999 to the Tahsildar, Udhagamandalam, to which, she was advised to move the same, after completion of the 10th standard. On 15.09.2002, after passing the 10th standard, the



petitioner moved an application seeking employment assistance on Compassionate grounds. Finding no response on the same, he made representation dated 14.01.2015 to the first respondent, which was kept pending without any action. So, he filed WP.No.28708 2015, which, by order dated 11.09.2015, was disposed of, directing the first respondent to dispose of the said representation within a period of ten weeks. Pursuant to the same, the second respondent took up the issue and rejected the claim of the petitioner seeking compassionate appointment, stating that the application was not made within a period of three years from the date of death of his father, by order dated 05.01.2016. Challenging the same, the present writ petition has been filed by the petitioner.

3.Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that the request of the petitioner cannot be considered as the application seeking appointment on compassionate ground was not submitted within the prescribed time limit of three years of death of the petitioner's father, as pointed out in G.O.No.42, Personnel & Employment dated 12.03.2007. It is also stated that the application of the petitioner to provide appointment on compassionate ground was rejected based on the existing rules and regulations of the Government; and the petitioner has failed to submit any conclusive proof to prove that he had submitted applications on 02.02.1999 and 15.09.2002.

4.Heard both sides and perused the records.

5.It is an admitted fact that the petitioner's father died on 26.09.1996, while he was in service. The petitioner claimed that he made application seeking compassionate appointment on 02.02.1999, well within the limitation period of three years, a copy of which is also enclosed at page 3 of the typed set of papers and hence, his claim has to be considered by providing a job on compassionate grounds, whereas the respondents categorically averred in their counter affidavit that no such application was received by them and hence, the subsequent application made by the petitioner was barred by limitation.

6.This court is of the opinion that even if the case of the petitioner is accepted that an application was made on 02.02.1999 by the petitioner's mother seeking compassionate appointment, within the period of limitation, the petitioner would not be entitled for appointment, as he was aged about 16 years and did not attain majority at that time; and the application made after reaching the age of superannuation, was absolutely, time barred. The rule position is very clear that the minimum age is 18 years at the time of making application for compassionate ground appointment; and such application should be submitted within 3 years from the date of death of the Government servant. Therefore, the order passed by the second respondent rejecting the petitioner's application



seeking compassionate appointment, warrants no interference. Further, the recent G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 supersedes all the Government Order earlier passed from the year 1972 thereby curtailing the power of the respondents granting any consideration for compassionate appointment.

7.That apart, 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."

8.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. In view of the same, the writ petition deserves to be dismissed and is accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Govt. of Tamil Nadu
Department of Revenue,
Fort St. George,
Chennai - 600 009.

2. The District Collector of the Nilgiris,
Udhagamandalam - 643 001

+1cc to The Government Pleadaer, SR No. 20821

W.P.No.21804 of 2016

PCH(CO)
B.VC(20.07.2021)