

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.24972 of 2016

G.Nithya

... Petitioner

..VS..

1. District Collector,
District Collector Office,
Krishnagiri District.

2. The Child Development Project Officer (Combined),
District Collectorate,
Krishnagiri 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 passed by the Second Respondent in Na.Ka.No.679/A1/2014 dated 27.10.2014 and quash the same and issue consequential direction directing the Second Respondents to provide employment to the Petitioner in the Second Respondent under Compassionate ground.

For Petitioner : M/s Karan and Uday

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

ORDER

The prayer made in this writ petition is to issue a writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the Second Respondent in Na.Ka.No.679/A1/2014 dated 27.10.2014 and quash the same and issue consequential direction to the second respondent to provide employment to the petitioner on compassionate grounds.

2.It is the case of the petitioner that by a deed of adoption dated 16.02.2007 bearing Document No.801 of 2007, she is the adopted daughter of one N.Gowramma, who employed in the second respondent office and died on 05.04.2007 while she was in service. The petitioner and her natural father and aunt are the surviving legal heirs of the deceased Government servant. After the demise of her adopted mother, the petitioner made representation on 24.04.2014 to the second respondent seeking service benefits and compassionate appointment.

Subsequently, as per the order of this Court in WP.No.29755 of 2014 dated 17.11.2014, the petitioner was settled with the service benefits due to her adopted mother, but the appointment on compassionate grounds was rejected by the second respondent, stating that the application was submitted after a lapse of seven years from the date of death of her adopted mother, i.e., beyond the limitation period of three years, by order dated 27.10.2014, which is under challenge in this writ petition.

3.The second respondent filed a detailed counter affidavit, *inter alia* stating that as per G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995, the application for appointment on compassionate grounds should be made within three years from the date of death of the Government servant and hence, the second respondent rejected the petitioner's application seeking compassionate appointment, on the sole ground that she made the same, after seven years from the date of death of her adopted mother.

4.Heard both sides and perused the materials placed before this Court.

5.There is no dispute that the petitioner is the adopted daughter of the deceased Government servant, who died on 05.04.2007, while she was in service. She applied for compassionate appointment to the second respondent, after a lapse of seven years from the date of death of her adopted mother. Hence, the said application was rejected by the second respondent on the ground of limitation, by the order impugned herein.

6.Undoubtedly, 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. Further, as per the recent G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 which supersedes all the Government Order earlier passed

from the year 1972, the application seeking compassionate ground appointment should be made within a period of three years from the date of death of the government servant.

7.Applying the aforesaid legal proposition to the facts of the present case, wherein, the petitioner made application, beyond the period of limitation, this court is of the opinion that the order passed by the second respondent in rejecting the petitioner's application is perfectly correct and the same does not require any interference.

8.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.

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, in the light of 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, this Court has no other option except to dismiss the writ petition.

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

26.03.2021

Index: Yes/ No
Internet: Yes/No
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To

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2. The Child Development Project Officer (Combined),
The District Collectorate,
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R.MAHADEVAN, J.

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W.P.No.24972 of 2016

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