

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.27966 of 2016

N.S.Deivasudha

... Petitioner

..vs..

1. The Commissioner,
Greater Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003
2. The Zonal Officer,
New Zone - V,
Greater Corporation of Chennai,
Basin Bridge Salai,
Chennai - 600 079.
3. The Secretary Government
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai - 600 009.

... 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 and quash the impugned order Ma.Aa.5.Na.Ka. No.C3/5221/2013 dated 13.06.2013 issued by the Second Respondent and consequently direct the Respondents to appoint the Petitioner on Compassionate ground.

For Petitioner : M/s N.Beulah John Selvaraj

For R1 to R3 : Mr.P.Manoj

ORDER

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in Ma.Aa.5.Na.Ka.No.C3/5221/2013 dated 13.06.2013 issued by the second respondent and consequently direct the respondents to appoint the petitioner on Compassionate grounds.

2.It is the case of the petitioner that her mother namely Vimala was employed as a Sweeper in Old Zone III, New Zone V, under the Greater Corporation of Chennai and she died on

12.04.1999, while she was in service. The Petitioner's father N.Samuel predeceased her on 13.06.1996. The Petitioner's sister died on 20.08.2011. Thereafter, the only surviving legal heir of the deceased Government servant is the petitioner herein and at that time, she was minor. So, on attaining the age of majority, she gave an application for Compassionate employment on 24.11.2010 to the First Respondent, which was rejected by the second respondent on 13.06.2013 stating that the application was not made within three years from the date of death of her mother. Feeling aggrieved, the petitioner is before this Court with the present writ petition.

3. Heard both sides and perused the records.

4. Admittedly, the petitioner's mother died on 12.04.1999, while she was in service. At that time, the petitioner was minor. Thereafter, on attaining majority, she submitted application seeking compassionate appointment on 24.11.2010, which was rejected by the second respondent on the ground of limitation, by the order impugned herein.

5. It is no doubt true that 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 appointment should be made within a period of three years from the date of death of the Government servant.

6. Applying the aforesaid legal principles to the facts of the present case, wherein, the petitioner made the application seeking appointment on compassionate grounds, after a lapse of 10 years, this Court is of the opinion that the order passed by the second respondent, rejecting the petitioner's application as time barred, is perfectly right and the same does not require any interference.

7. At this juncture, it is relevant to point out the observation of the Supreme Court in State of Haryana v. Rani Devi [1996 (5) SCC 308], 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".

8. 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."

9. 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."

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).NO.7016 of 2011 dated 11.03.2020 and accordingly, this writ petition is liable to be dismissed.

11. In the result, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003

2. The Zonal Officer,
New Zone - V,
Greater Corporation of Chennai,
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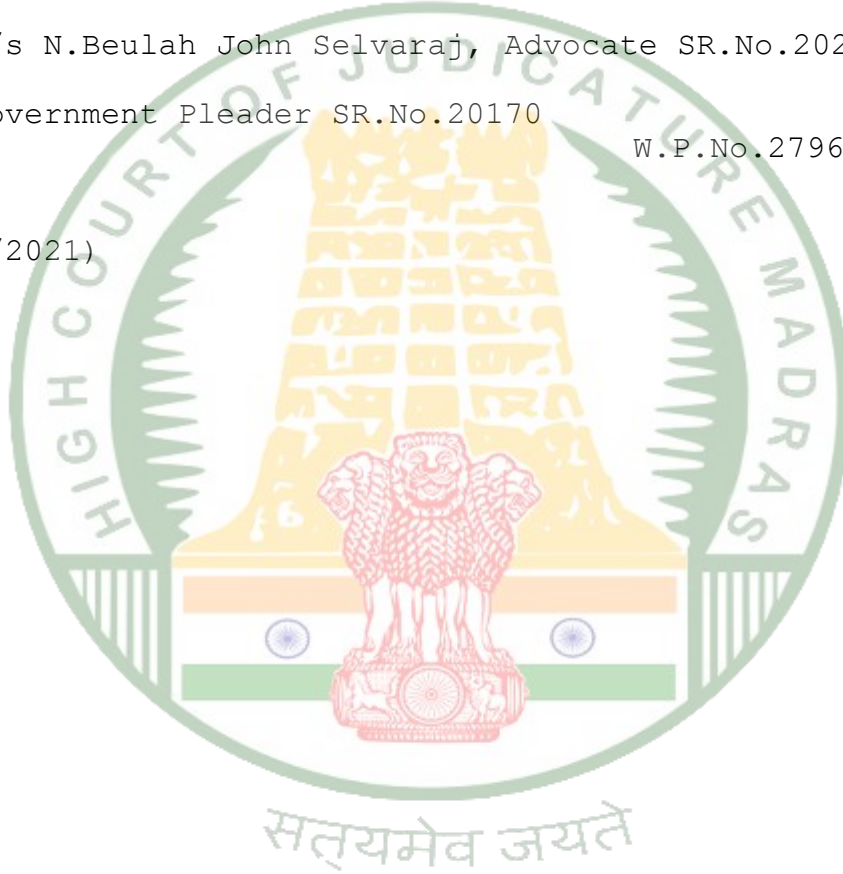
3. The Secretary Government
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai - 600 009.

+1cc to M/s N.Beulah John Selvaraj, Advocate SR.No.20297

+1cc to Government Pleader SR.No.20170

W.P.No.27966 of 2016

LN(CO)
GMY(29/06/2021)



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