



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.11.2021

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.17676 of 2019 &
W.M.P.No.17115 of 2019

P.Raja

...Petitioner

Vs.

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
- 2.The Assistant Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.
- 3.The Zonal Officer, Zone - 5,
Greater Chennai Corporation,
Mullakothram, Chennai - 79.
- 4.The Secretary to Government,
Municipal Administration Water
Supply Department,
Fort St.George, Chennai - 600 009.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records and quash the impugned orders Po.Thu.Na.Ka.No.E10/35886/2017 dated 01.03.2018 issued by the second respondent rejecting my application and consequently direct the respondents to appoint the petitioner on Compassionate Ground basis.

For Petitioner .. Mr.Beulah John Selvaraj N.

For Respondents.. Mrs.Karthika Ashok,
Standing Counsel



ORDER

The case of the petitioner is that his father was employed as Malaria Thozhilali under the respondent/Corporation. While in service, he died on 07.02.1991 leaving behind his wife, four sons and a daughter. According to him, that his elder son one Mr.Velu applied for compassionate appointment in 1991 itself and unfortunately met with an accident and sustained fracture and also lost his eye sight. Therefore, the said Velu gave no objection letter to the first respondent/Corporation on 15.03.1994, to provide compassionate appointment to the other brother of the petitioner Mr.Rajamanicam.

2.It was unfortunate that the said Rajamanickam died on 06.07.1996 and the other brother Velu also died on 07.02.2013. In the said circumstances, the petitioner applied for compassionate appointment on 21.03.2000. The application was sent for verification and the correspondence were being exchanged between the Authorities in the process of consideration of the petitioner's application.

3.However, eventually the second respondent rejected the petitioner's application on 01.03.2018. The rejection is on the ground that the third application filed by the petitioner herein was much after the expiry of three year limitation and hence cannot be considered for appointment on compassionate grounds. Challenging the same, the petitioner is before this Court.

4.The learned counsel for the petitioner would submit that it was so unfortunate that the family had lost two sons successively in accident, forcing the third son to apply for compassionate appointment in 2000. However, it was entirely due to the continued correspondence exchanged among the officials, the consideration was delayed and finally it was rejected on 01.03.2018 by impugned order dated 01.03.2018. According to the learned counsel that the three year limitation period cannot be applied in this case as the first application made by the elder brother of the petitioner was very much within the time as the same must be made in 1991 itself.

5.On behalf of the Corporation, Mrs.Karthika Ashok, learned Standing counsel appeared and a counter affidavit has also been filed. What is stated in the counter affidavit is the same as what was stated in the impugned order dated 01.03.2018. According to the counter affidavit, the scheme for compassionate appointment contemplates the extension of immediate employment assistance to the family of the deceased and such offer of



compassionate appointment cannot be made after a period of 25 years or so.

6. This Court is in agreement with the submission of the learned Standing counsel for the Corporation. Admittedly, the cause of action had arisen in 1991 and although it appeared that the first son had applied in 1991 itself, it is unfortunate that he could not pursue himself for the reasons stated in the affidavit and the second son who applied was unfortunately died. But the fact of the matter remains that the second son died in 1996.

7. However, the fact that the scheme for grant of compassionate appointment envisage immediate employment assistance to be given to the family of the deceased employee in order to tide over the sudden crises engulfing the family by the reason of the breadwinner's death. Such offer of compassionate appointment cannot be kept open for indefinite period of time and cannot be claimed as a matter of right after a lapse of 25 years or so. In fact as disclosed by the petitioner himself that he was 31 years old when he filed affidavit in 2019 and at this distance of time he could not claim compassionate appointment on the death of his father in 1991.

8. Although, the learned counsel attempted to submit before this Court about the tragedy in the family as to the unfortunate death of the two sons of the deceased employee, who are brothers of the petitioner herein, yet this Court is not inclined to entertain this Writ Petition, as the deceased employee has died taken in 1991. By no stretch of legal justification, the claim of petitioner can be considered at the present point of time after 30 years.

9. For the above said reasons, this Court finds no merit in the Writ Petition and hence stands dismissed. No costs. Consequently, the connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar(CJ conf)

// True Copy //

Sub Assistant Registrar

mrm



To

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

2.The Assistant Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.

3.The Zonal Officer, Zone - 5,
Greater Chennai Corporation,
Mullakothram, Chennai - 79.

4.The Secretary to Government,
Municipal Administration Water
Supply Department,
Fort St.George, Chennai - 600 009.

+1cc to M/s.Karthikaa Ashok, Advocate SR.No.60803

W.P.No.17676 of 2019 &
W.M.P.No.17115 of 2019

CB(22/12/2021)