



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.11.2021
CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.17313 of 2019
and
W.M.P.No.16873 of 2019

B.Santhosh Kumar .. Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Medical Officer,
Family Welfare Department,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
3. The Secretary to Government,
Municipal Administration Water
Supply Department,
Fort St.George,
Chennai - 600 009.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the impugned order Ma.Sa.Thu.Na.Ka.No.F1/4299/2017 dated 21.04.2017 issued by the 2nd respondent and consequently, direct the respondents to appoint the petitioner on compassionate ground basis.

For Petitioner : Mr.Beulah John Selvaraj N.

For Respondents: Mr.Karthika Ashok

for R1 & R2

Mr.G.Krishnaraja,

Addl.Govt.Pleader for R3.

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorified Mandamus to call for the records and quash the impugned order Ma.Sa.Thu.Na.Ka.No. F1/4299/2017 dated 21.04.2017 issued by the 2nd respondent and consequently, direct the respondents to appoint the petitioner on compassionate ground basis.

2. The petitioner's father was employed as Office Assistant in the Family Welfare Department in the 1st



respondent Corporation. While in service, he died on 14.11.2013.

3. According to the petitioner, his father married one P.Rani Arpudhamary first and from the wedlock, three children were born. From the second marriage between the petitioner's mother and his late father, four children were born. There is also a dispute as to the marital status of the petitioner's mother and the first wife of his late father.

4. The first wife appeared to have filed O.P.No.40 of 2017 for grant of Succession Certificate. In that proceedings, a memo of compromise was filed agreeing that the first wife was entitled to get family pension and arrears of family pension and the petitioner herein was entitled to be considered for appointment on compassionate ground in the Corporation of Chennai. It was also agreed to equally divide the terminal benefits of the deceased employee concerned. A joint letter was also submitted to the Corporation to consider the claim of the petitioner herein on compassionate appointment. The application was submitted within three years limitation period as provided in the scheme of compassionate appointment.

5. At this, an order was passed on 21.04.2017, rejecting the claim of the petitioner herein. According to the impugned order already the first wife Rani Arpudhamary submitted an application seeking compassionate appointment and the second application was not maintainable in terms of the Government Order on the subject matter. Against the said order, the present writ petition has been filed.

6. The learned counsel would submit that when the first wife had applied earlier, she was almost of the age of superannuation and the question of considering her application did not arise. In any event, even the petitioner herein, admittedly submitted his application within three years period. The learned counsel would also draw the attention of this Court, the compromise which was reached among the parties before this Court in succession O.P.No.40 of 2017 which was disposed of. In the order dated 07.09.2017, the learned Judge of this Court, in paragraph No.2 has stated that the petitioner herein, the 5th respondent therein shall be entitled for appointment on compassionate ground in the Corporation of Chennai and the petitioners therein had no objection for the same. The learned counsel would submit that in terms of the memo of compromise, the petitioner claims that his request is to be considered by the Corporation.

7. The learned counsel appearing for the Corporation would stoutly resist the claim of the petitioner herein stating that from a family, only one member can claim compassionate appointment. Therefore, the second claim by the petitioner herein was not entertained. According to her, even



8. This Court considered the submissions of the learned counsels, perused the pleadings and the materials placed on record.

10. Further, this Court in O.P proceedings (O.P.No.40 of 2017) dated 07.09.2017 has clearly recorded in paragraph No.2 that the petitioner herein was entitled to get appointment on compassionate ground in the Corporation of Chennai. In view of the compromise memo, it cannot be gainsaid by the respondent that they cannot consider the claim of the petitioner.

12. Merely because the first wife of the deceased, father of the petitioner had filed an application earlier and such application was not considered favourably, that cannot be put against the petitioner herein for considering his application for compassionate appointment, particularly, when the parties concerned, including the first wife and her children had no objection, as revealed in the memo of compromise dated 07.04.2017.

14. For the aforesaid reasons, the impugned order passed in Ma.Sa.Thu.Na.Ka.No. F1/4299/2017, dated 21.04.2017 is hereby set aside. The Writ Petition is allowed to the extent that the first respondent is directed to reconsider the entire issue afresh and pass orders on the petitioner's



representation on merits and in accordance with law within period of eight weeks from the date of receipt of a copy of this order.

15. While considering the request of the petitioner, in view of the peculiar facts and circumstances, the Corporation shall consider the case without summarily rejecting the claim of the petitioner on the ground that the second application is not liable to be entertained citing three year limitation period.

16. No costs. Consequently, W.M.P.No.16837 of 2019 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Medical Officer,
Family Welfare Department,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
3. The Secretary to Government,
Municipal Administration Water
Supply Department,
Fort St.George,
Chennai - 600 009.

+1 cc to Mr.Karthika Ashok ., Advocate Sr.NO.58931
+1 cc to Mr. Beulah John Selvaraj N., Advocate Sr.NO. 58652
+1 cc to Government Pleader Sr.NO. 59444

W.P.No.17313 of 2019

ss(CO)
A.SK(03.12.2021)