

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.03.2021
Delivered on : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.5387 of 2014
and
M.P.Nos.1 and 2 of 2014

P.V.Chandra

... Petitioner

...vs..

1. The Registrar of Co-operative Societies,
170, Periyar EVR High Road,
Kilpauk,
Chennai - 600 010.
2. The Special Officer,
Tamil Nadu State Apex Co-operative bank Ltd.,
N.S.C. Bose Road,
Chennai - 600 001.

... 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 of the First Respondent pertaining to his proceedings in R.C.No.100760 of 2011 CBS2 and quash the order dated 14.12.2012 and consequently direct the Respondents to consider the name of the Petitioner for suitable appointment on Compassionate ground.

For Petitioner : M/s.R.Sivakumar
For R1 : Mrs.T.Giriya, AGP
For R2 : Mr.P.Anbarasan

ORDER

Calling in question the proceedings of the first respondent dated 14.12.2012, the petitioner has come up with this writ petition. She has also prayed for a consequential direction to the respondents to consider her candidature for appointment on compassionate ground.

2.According to the petitioner, her father by name P.S.Vipranarayanan worked as Assistant Manager and he died on 25.07.2006, while he was in service. At that time, the petitioner did not complete the age of 18 years and completed

only +2 examination. After completion of B.Tech course, her mother submitted application on 21.06.2010 to the second respondent requesting to consider the name of the petitioner for compassionate appointment. However, the said application was rejected on 21.10.2010 citing the ground of limitation. The petitioner's revision petition to the first respondent dated 18.10.2011 was also rejected on 14.12.2012 on the same ground, which is impugned in this writ petition.

3. Upon notice, the second respondent filed a detailed counter affidavit, wherein, it is inter alia stated that the petitioner's mother made a representation dated 21.6.2010 requesting appointment to the petitioner on compassionate grounds only after a lapse of 3 years and 10 months, whereas as per the Bye-laws of the Bank, such a request has to be made within one year from the date of death of the employee and hence, the Bank informed her on 21.10.2010 that they were not in a position to entertain the said application. It is also stated therein that a sum of Rs.25,30,468/- was settled to the petitioner's family as death benefits, apart from EPF amount and hence, there is no delay in settlement of death benefits to the deceased employee.

4. The learned counsel for the petitioner submitted that at the time of death of his father, the petitioner was a minor and completed only +2 course and hence, she did not make application seeking compassionate appointment, within a period of limitation. Without considering the said fact in a proper perspective, the respondents rejected the petitioner's request stating that the application was received after 3 years and 10 months and as per the staff regulation of the second respondent, it should have been made within a period of one year. Thus, such course adopted by the respondents is arbitrary, illegal and against the object of the Scheme, according to the learned counsel.

5. Per contra, reiterating the averments made in the counter affidavit filed by the second respondent, the learned counsel submitted that the request of the petitioner was not considered for the reason that the time limit of one year was over. It is further submitted that if the petitioner's mother had preferred such claim, based on her educational qualifications, the respondent Bank would have considered for any of the two entry level post, whereas she had not submitted any application on compassionate ground either for herself or for the petitioner within the prescribed period. Therefore, the order impugned herein is perfectly right and the same warrants no interference at the hands of this Court.

6.Heard both sides and perused the materials brought on record.

7.Concededly, the petitioner's father worked in the respondent Bank and died on 25.07.2006, while he was in service and the petitioner and her mother are his only legal heirs. At the time of death of the deceased employee, the petitioner was a minor and completed only 12th standard and she made application seeking compassionate appointment to the second respondent only on 20.06.2010. Her application was rejected by the second respondent on 21.10.2010 as time barred. The revision petition filed by the petitioner on 18.10.2011 to the first respondent was also dismissed on 14.12.2012, which is challenged herein.

8.For better appreciation, the relevant passage of the said order dated 14.12.2012 is extracted hereunder:

"As per staff regulations of the TNSACB, the request for appointment under compassionate grounds shall be made for the dependents within a period of one year from the date of the death of the employee.

The minor dependent of the deceased employee will be given appointment on attainment of age of majority. Only in respect of Government service, the request for compassionate appointment shall have to be made within a period of three years from the date of death.

It is observed that your father Thiru P.S.Vipranarayanan who was serving as Assistant Manager in the TNSACB expired on 25.07.2006 and the Bank has not received any application from your mother Tmt. P.Vedavalli for appointment under compassionate grounds within a period of one year from the date of death. However, your request for appointment under compassionate grounds has been made on 21.06.2010 after lapse of three years, ten months and twenty seven days after the date of death of your father.

In the circumstances stated above and as per the staff regulations of the TNSACB now in force, your request for appointment under compassionate grounds cannot be accepted."

9.From the aforesaid extract, it is very clear that the petitioner made request for compassionate appointment, after a lapse of three years, ten months and twenty seven days from the date of death of her father, whereas Bylaw no.20(ii) of the Special Bye-laws of the Bank specifies that any application for appointment on compassionate ground must be preferred within one year from the date of death of the employee. As already stated, no application was made seeking compassionate appointment either for the petitioner or for her mother, within the stipulated

period of one year from the date of death of the deceased employee. As such, the request of the petitioner cannot be entertained on the ground of limitation, which has been rightly done by the respondent Bank, in the opinion of this Court.

10.No doubt, the compassionate appointment is meant to provide succor to the family of the deceased employee died in harness. At the same time, it 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. At this juncture, it is noteworthy to mention the observation of the Supreme Court in Chief Commissioner, Central Excise and Customs and others v. Prabhat Singh [(2012) 13 SCC 412] that "the Court should not fall prey to any sympathy syndrome of issue direction for compassionate appointment dehors prescribed norms".

11.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."

12.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."

13.In such view of the matter, this writ petition sans merits and is accordingly, dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar of Co-operative Societies,
170, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

2.The Special Officer,
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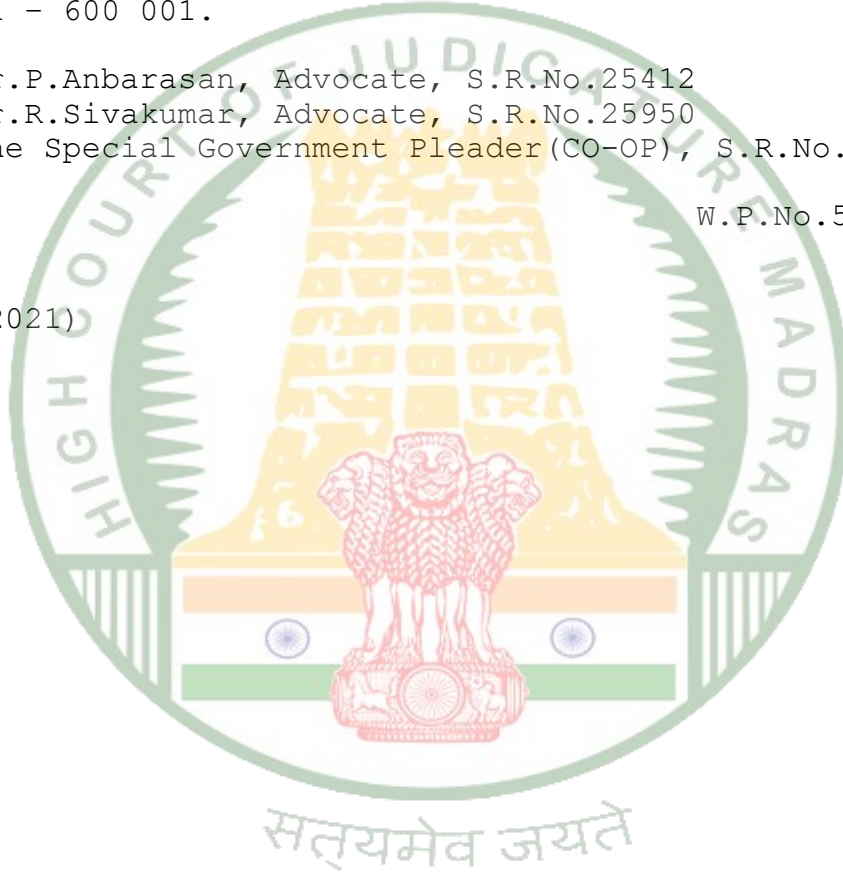
+1cc to Mr.P.Anbarasan, Advocate, S.R.No.25412

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.25950

+1cc to the Special Government Pleader(CO-OP), S.R.No.25659

W.P.No.5387 of 2014

BR(CO)
CB(07/07/2021)



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