



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.462 of 2014

S.Dhanasekaran

... Petitioner

..vs..

1. The District Collector
Villupuram District
Office of the District Collector, Villupuram.
2. The Revenue Tahsildhar,
Ulundurpet, Villupuram District.
3. The Headquarters Deputy Tehsildhar
Ulundurpet, Villupuram 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 of the Second Respondent in relation to the proceedings issued in L1/6998/2006 dated 07.05.2010 and quash the same and issue a consequential direction to the Respondents to consider the Petitioner for suitable post under Compassionate ground.

For Petitioner : M/s S.Saravanan

For R1 to R3 : Mr.R.S.Selvam, GA

ORDER

The case projected by the petitioner in this writ petition is as follows:

The petitioner's father by name Sivanandham died on 04.09.2002, while he was working as a Village Assistant at Thirunavalur Village, Villupuram District. Immediately, on 17.09.2002, his wife / petitioner's mother approached the third respondent and requested to provide a suitable job under compassionate grounds to her, to which, she was directed to obtain legal heir certificate. Accordingly, she applied for legal heir certificate to the third respondent along with a request to compassionate appointment. Subsequently, the third respondent issued a legal heir certificate dated 11.11.2012 to



the petitioner's mother, however, no order was passed as regards the grant of compassionate appointment. Thereafter, the petitioner made application dated 22.03.2006 seeking compassionate appointment to the respondents 2 and 3. Though the said application was received on 23.03.2006, the same was rejected by the second respondent on 07.05.2010, after a lapse of four years, stating that the application was made belatedly. Aggrieved over the same, the petitioner has come up with this writ petition to quash the said order dated 07.05.2010 passed by the second respondent and consequently, direct the respondents to consider the petitioner for suitable post under compassionate grounds.

2. Heard both sides and perused the records.

3. Admittedly, the petitioner's father died on 04.09.2002, while he was in service. The application seeking compassionate appointment was made by the petitioner only on 23.03.2006, after a lapse of four years from the date of death of his father. Though the petitioner claimed that his mother applied for legal heir certificate as well as compassionate appointment immediately after the death of his father, there was no material available to substantiate the same. In the absence of one such evidence, the application submitted by the petitioner can be treated as the first application seeking compassionate ground appointment, which was belatedly made, in view of 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, as per which, the application seeking compassionate ground appointment should be made within a period of three years from the date of death of the Government servant. Therefore, the second respondent rightly rejected the claim of the petitioner, by the order impugned herein, which in the opinion of this Court, does not call for any interference.

4. 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. 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. 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".



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5.Further, 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."

6.Hence, 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).N0.7016 of 2011 dated 11.03.2020. In view of the same, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Villupuram District
Office of the District Collector, Villupuram.
2. The Revenue Tahsildhar,
Ulundurpet, Villupuram District.
3. The Headquarters Deputy Tehsildhar
Ulundurpet, Villupuram District.

+1cc to the Government Pleader, S.R.No.20176

W.P.No.462 of 2014

SKY(CO)
CB(22/07/2021)