



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021
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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12111 of 2014
and
M.P.No.1 of 2014

K.Karthikeyan

... Petitioner

Vs

1.The State of Tamil Nadu rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.The Engineer-in-Chief and
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai - 5.

3.The Assistant Executive Engineer,
Public Works Department,
Vellar Basin Sub Division (W.R.O),
Cuddalore.

4.The Executive Engineer,
Public Works Department,
Vellar Basin Sub-Division (W.R.O),
Virudhachalam, Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 4th respondent made in Lr. No.767/ Ni aa-2/2013 dated 24.09.2013, quash the same and to consequently direct the respondents to consider the claim of the petitioner for appointment on compassionate ground to any eligible post forthwith.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.J.Ramesh, AGP

ORDER

The relief sought for in this writ petition is to call for the records relating to the order of the 4th respondent in Lr. No.767/ Ni aa-2/2013 dated 24.09.2013 and quash the same and consequently direct the respondents to consider the claim of the



petitioner for appointment on compassionate ground to any suitable post forthwith.

2. According to the petitioner, his father Krishnamoorthy, died in harness on 09.11.1993, while working as casual labourer cum NMR which came to be regularized as Irrigation Assistant, on the basis of G.O.Ms.No.334 PWD dated 19.10.2007. As per the said Government Order, the services of the petitioner's father were regularized retrospectively with effect from the date on which he completed 10 years of service, based on which all the terminal benefits accrued on him, came to be settled to the petitioner's mother. Thereafter on 05.01.1994, the mother of the petitioner made an application seeking appointment on compassionate grounds to the petitioner, which was returned stating that the petitioner was minor. Thereafter, on attaining majority, the petitioner submitted application on 08.04.2007 to the respondents seeking compassionate appointment. However, the said application was rejected by the fourth respondent by communication dated 24.09.2013, stating that the application was not made within a period of three years from the date of death of the Government servant. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, a detailed counter affidavit was filed by the respondents, wherein, it is inter alia stated that since the father of the petitioner was a casual/mazdoor employee, no right of permanency had been conferred on him at the time of his death on 09.11.1993; after his demise, the mother of the petitioner made an application on 05.01.1994 seeking compassionate appointment, which was returned stating that the petitioner was minor and did not attain majority; thereafter, the petitioner's application was rightly rejected by the 4th respondent, since the application was made belatedly beyond three years from the date of death of his father.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

5. Concededly, the petitioner's father died on 09.11.1993 while he was in service. The petitioner's mother applied for compassionate appointment in favour of petitioner, on 05.01.1994 within the period of limitation, however, it was returned stating that the petitioner was minor. Thereafter, the petitioner, on reaching the age of superannuation, made application on 08.04.2007, which was rejected as time barred, by the fourth respondent by communication dated 24.09.2013, which is questioned in this writ petition.



6. At the outset, it is to be noted 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 earlier orders passed from 1972, the application for the compassionate ground appointment should be made within 3 years from the date of death of the Government servants; and the minimum age limit for the legal heir to be eligible for such appointment is 18 years.

7. Applying the aforesaid legal proposition and the conditions laid down in the Government Order to the facts of the present case, this Court is of the opinion that the order passed by the fourth respondent in rejecting the claim of the petitioner seeking compassionate appointment is perfectly right as the application was made after a lapse of 14 years from the date of death of his father and hence, the same warrants no interference.

8. 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".

9. 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."

10. 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."

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11. 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.

12. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 600 009.

2. The Engineer-in-Chief and
Chief Engineer (General),
Public Works Department,
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3. The Assistant Executive Engineer,
Public Works Department,
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Cuddalore.

4. The Executive Engineer,
Public Works Department,
Vellar Basin Sub-Division (W.R.O),
Virudhachalam, Cuddalore District.

+1 cc to Government Pleader Sr.No. 20541
+1cc to Mr.L.ChandraKumar, Advocate SR.No.20647

W.P.No.12111 of 2014

UM(CO)

B.VC(23.07.2021)