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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19476 of 2021

(Through Video Conferencing)

Mr.N.G.Naveen Kumar

... Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Superintendent Engineer,
Transport Road Department,
Greater Chennai Corporation,
Amma Maligai,
Rippon Building, Chennai - 600 003.
3. 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 to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in proceedings Pho.Sha.Thu.Na.Ka.No.P5/2394/2020 dated 29.09.2020 and quash the same as illegal, incompetent and without jurisdiction and further direct the second respondent to appoint the petitioner on compassionate grounds.

For Petitioner : Ms.N.Beulah John Selvaraj

For Respondents

For R1 & R2 : Mr.M.Ganesan

For R3 : Mr.L.S.M.Hasan Fizal
Government Advocate



ORDER

The petitioner has challenged the impugned order dated 29.09.2020 passed by the second respondent. The petitioner has sought for a direction to be issued to the second respondent, to appoint the petitioner on compassionate grounds.

2. By the impugned order, the second respondent has rejected the request of the petitioner for appointing the petitioner on compassionate grounds on the ground that the application for appointment of compassionate grounds was made beyond the period of three years from the date of death of the father of the petitioner deceased employee.

3. Appearing on behalf of the respondents, the learned counsel submits that the application for appointment on compassionate grounds was made on 12.09.2011 and therefore, the request of the petitioner for being appointed on compassionate grounds cannot be considered. It is further submitted that the Government Letter No.42119 dated 11.04.2008 protected the rights of the family members of the deceased employee, provided that such application was made within a period of three years. It is submitted that the petitioner was minor and therefore could not have filed an application.

4. The learned counsel for the respondents further submits as a matter of fact, the Government of Tamil Nadu has issued G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 wherein, it has been reinstated stated that the appointment on compassionate grounds cannot be considered, if the application for such appointment is not made within a period of three years from the death of the deceased employee.

5. Heard the learned counsel for the petitioner and the respondents.

6. The facts on record indicate that the petitioner's father died on 02.09.2007 while serving as a watchman with the respondents Corporation. The petitioner's mother had pre-deceased the petitioner's father and had died on 31.12.2003. At the time of death of the petitioner's father and mother, the petitioner was aged about ten years and six years respectively. When the petitioner's grand-mother made a representation on 12.09.2011, the petitioners would have been about 11 years. Though the respondents have stated that application for appointment on compassionate grounds has to be made within a period of three years from the date of death of the employee, considering the fact that the petitioner hails from economically



weaker section of the society and probably even educationally backward strata of the society, it cannot be accepted that the family of the petitioner i.e., his grant mother would have known that application for such appointment on compassionate grounds has to be made within a period of three years from the date of death of the deceased employee.

7. Since there is no avenue for such families to get to know about the beneficial schemes of the Government and that of the respondents particularly, a fair amount of relaxation as far as the age is concerned can be considered depending on the facts and circumstances of each case. Considering the fact that the petitioner was minor at the time of the death of his parents has been orphaned and considering the fact that the petitioner was not able to get guidance from his parents for completing his Education, his case should be considered favourably as the petitioner still continues to remain under indigence circumstances.

8. Considering the same, this Court is inclined to quash the impugned order dated 29.09.2020 reject the request of the petitioner to be appointed on compassionate grounds. If the petitioner otherwise qualifies, other criteria for being appointed on compassionate grounds, the respondents may suitably accommodate the petitioner. Such exercise shall be carried out by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.

9. This Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

arb/nst

To

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



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2. The Superintendent Engineer,
Transport Road Department,
Greater Chennai Corporation,
Amma Maligai,
Rippon Building, Chennai - 600 003.

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

+1cc to M/s.N.Beulah John Selvaraj, Advocate, S.R.No.46951

+1cc to the Government Pleader, S.R.No.47524

W.P.No.19476 of 2021

SS(CO)
SU(05/10/2021)