

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.18282 of 2014

R.Suresh Kumar

... Petitioner

..VS..

1. District Collector,
Erode.

2. Assistant Director (Audit)
District Rural Development Agency,
Erode.

... 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 pertaining to Na.Ka.No.4701/2009/PaAA3 dated 17.04.2009 issued by the First Respondent and quash the same and consequently direct the Respondent to provide Compassionate employment to the Petitioner.

For Petitioner : M/s A.M.Venkatakrishnan

For R1 & R2 : Mr.R.S.Selvam GA

ORDER

This writ petition has been filed to quash the order passed by the first respondent in Na.Ka.No.4701 /2009 / Pa AA3 dated 17.04.2009 and consequently, direct the respondents to provide compassionate employment to the petitioner.

2.It is the case of the petitioner that his father namely C.Rathinam worked as Assistant Director (Audit) in the second respondent Department for more than 15 years and he died on 01.11.2000 while he was in service. Subsequently, the petitioner's mother Ranjitham also died on 16.10.2001. Immediately, after the demise of the petitioner's father, his elder daughter / elder sister of the petitioner Bhuvaneswari applied for job under compassionate grounds on 29.03.2001, which was kept pending. In the mean while, she got married and hence, she was not eligible for such appointment. Thereafter, the Petitioner made application for compassionate appointment on 17.09.2008, which was rejected by the first respondent by communication dated 17.04.2009, stating that the said application was not made within a period of three years from the date of

death of his father. Feeling aggrieved, the petitioner is before this Court with the present writ petition.

3.Upon notice, the respondents filed a detailed counter affidavit, wherein it is *inter alia* stated that after the death of the Government servant, his daughter R.Bhuvaneswari had applied for the employment on compassionate ground on 29.03.2001; at that time the Government imposed ban on filling up of posts by temporary appointment of compassionate grounds, due to which, the said application was in waiting list; after that, the said R.Bhuvaneswari issued a letter to the first respondent that she was married; thereafter, the petitioner applied for employment under compassionate grounds, after a lapse of 8 years from the date of death of his father and hence, he was not eligible for compassionate appointment.

4.Heard both sides and perused the records.

5.It is settled law that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis. However, it cannot be claimed as a matter of right and it should be made in terms of the Scheme and the Government Order.

6.Such being the position of law, in the present case, admittedly, the application filed by the petitioner's sister, seeking appointment on compassionate grounds, within the limitation period of three years, was not considered due to the fact that she got married subsequently. Thereafter, the petitioner made application seeking compassionate employment on 17.09.2008 i.e., after a lapse of 8 years from the date of death of his father. Hence, the first respondent rejected the said application on the ground of limitation by the order dated 17.04.2009, which is impugned herein.

7.This Court finds no infirmity or illegality in the order so passed by the first respondent, in view of 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, as per which, the application for the compassionate ground appointment should be made within 3 years from the date of death of the Government servants and therefore, the same does not call for any 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.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).N0.7016 of 2011 dated 11.03.2020.

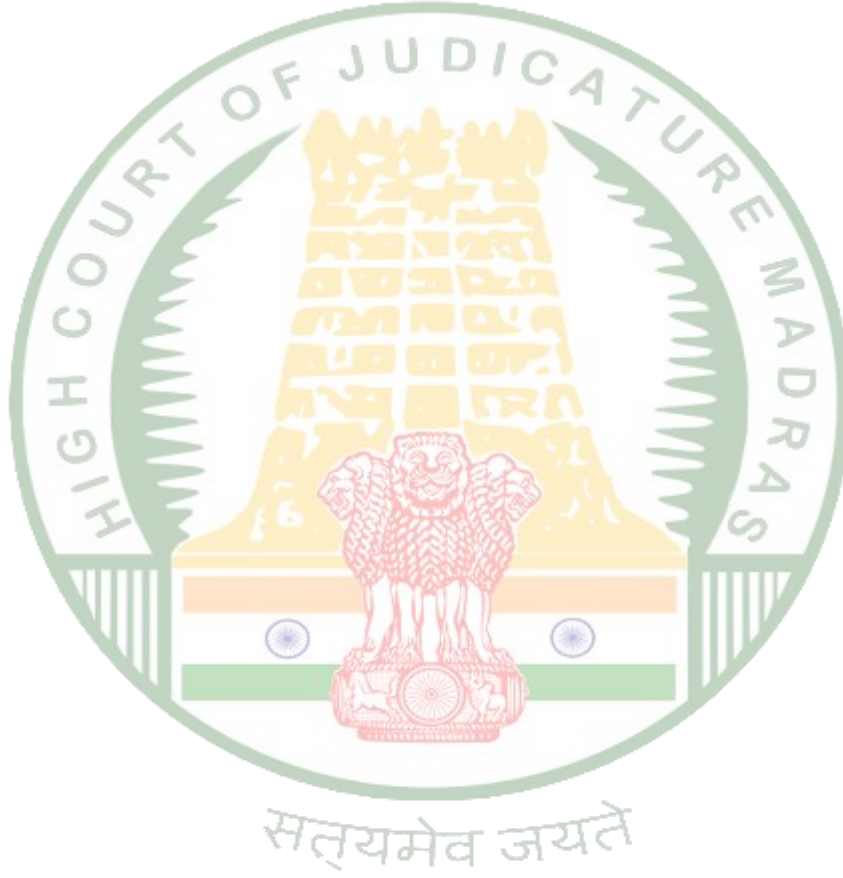
11.In such view of the matter, the writ petition deserves to be dismissed and is accordingly, dismissed. No costs.

सत्यमेव जयते

26.03.2021

Index: Yes/ No
Internet: Yes/No
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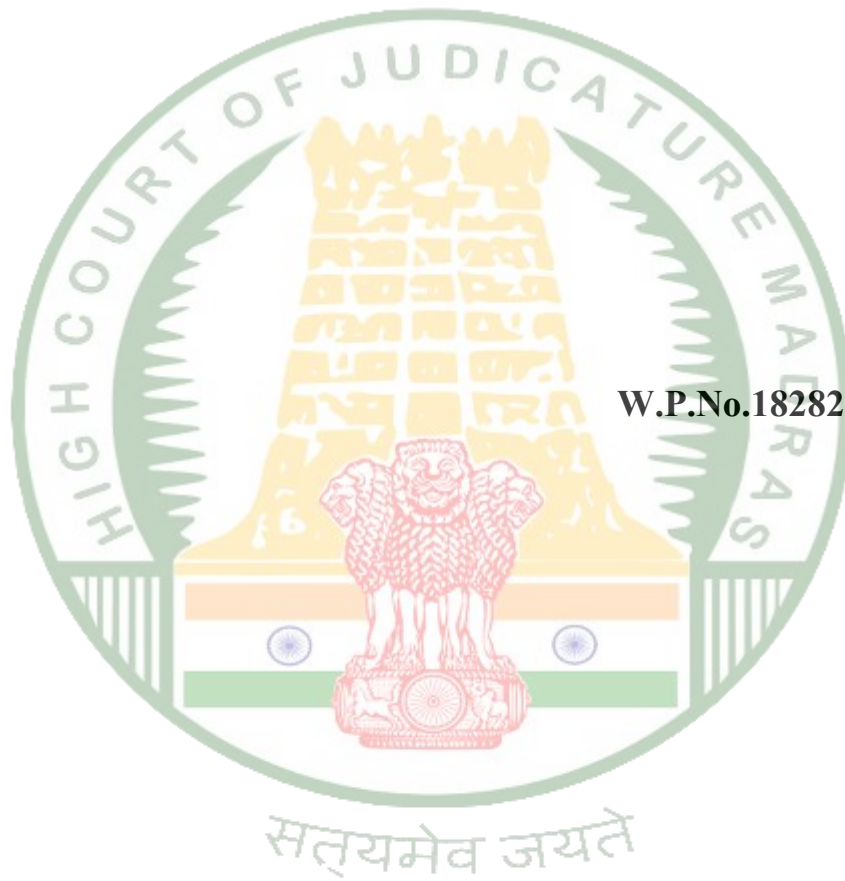
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R.MAHADEVAN, J.

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