



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.12.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.32029 of 2019

K.Sailaja, D/o Late K.Kottappa

...Petitioner

Vs.

The Chief Educational Officer,
Near Boys Higher Secondary School,
Krishnagiri-635 001.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings passed in Na.Ka.No.5687/B1/2018, dated 04.04.2019 on the file of the respondent herein, quash the same and consequently direct the respondent herein to consider the appointment of the petitioner under compassionate grounds.

For petitioner : Mr.K.Govi Ganesan

For respondents: Mr.Abishek Murthy, Govt. Advocate

ORDER

This Writ Petition is filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings passed in Na.Ka.No.5687/B1/2018, dated 04.04.2019 on the file of the respondent herein, quash the same and consequently direct the respondent herein to consider the appointment of the petitioner under compassionate grounds.

2. The case of the petitioner is that her father was working as Head-master of Thottabelur Panchayat Union Elementary School and he died in harness on 26.02.2000. According to her, her father left behind two wives with four children through the second wife and the first wife has no children from her wed-lock.

3. According to the petitioner, she had applied for consideration for grant of compassionate appointment on 06.02.2003 and the same was returned for certain defects and she



re-submitted the same subsequently on 24.02.2003. According to her, she re-submitted her application along with all other documents to the respondent on 06.10.2003. It is her further submission that there was no response to her representation for nearly 15 years and therefore, she submitted another representation on 12.03.2018. Having found no response, she approached this Court in W.P.No.15642 of 2018 and the same was disposed of by this Court on 26.07.2018 with a direction to the authorities concerned. The relevant portion of the said order dated 26.07.2018 reads as follows:

"4. Regard being had to the facts and circumstances of this case, especially, considering the nature of relief sought for by the petitioner and without going into the merits of the claim projected by the petitioner, this Court directs the respondents to take an informed and considered decision on the representation submitted by the petitioner on 02.03.2018 in accordance with law, with regard to compassionate ground appointment of the petitioner, if deficiency has been removed by the petitioner. However, if deficiency is available for non-furnishing of certain documents, the petitioner may also be asked to produce those document. Thereafter, such decision be taken based on the materials on record, without providing opportunity to submit further required documents, the same shall not be a ground to reject the application. Such decision be taken within a period of eight weeks from the date of rectification of the defects if any otherwise within a period of six weeks from the date of receipt of a copy of this order.

5. With the aforesaid direction, this writ petition stands disposed of. No costs."

4. In pursuance of the above direction of this Court, dated 26.07.2018, the request of the petitioner came to be rejected on 04.04.2019, against which, the present Writ Petition is filed for the relief stated supra.

5. The learned counsel for the petitioner adverted to the averments made in the affidavit filed in support of his submissions. He relied on the following judgments:



(i) 2019 (14) SCC 646 (Union of India Vs. V.R.Tripathi) (Civil Appeal No.12015 of 2018 (arising out of SLP(C).No.32004 of 2016), dated 11.12.2018) and

(ii) Writ Appeal No.2495 of 2019 (S-RES), Division Bench of Karnataka High Court, dated 24.06.2021.

6. The respondent has filed counter affidavit denying the claim of the petitioner. This Court also heard the submissions made by the learned Government Advocate appearing for the respondent.

7. Heard both sides and perused the materials available on record.

8. From the above factual narrative, it could be seen that the cause of action has originally arisen on 26.02.2000 when the petitioner's father died in harness. Although it is stated that the application was preferred within three years on 24.02.2003, yet, the second representation was made only on 12.03.2018. Nothing has been satisfactorily explained in the affidavit filed in support of the Writ Petition, as to what had happened for 15 long years between 2003 and 2018. Even thereafter, the petitioner appeared to have filed the Writ Petition and quietly obtained a direction from this Court in W.P.No.15642 of 2018, dated 26.07.2018, as if the cause of action was still subsisting. Only thereafter, her application was rejected by the impugned order on 04.04.2019. She has now approached this Court in 2019 by way of the present Writ Petition.

9. Upon perusing the decisions relied on by the learned counsel for the petitioner, this Court is of the view that those decisions relied on by the learned counsel for the petitioner are distinguishable on facts and the same are not applicable to the facts of the present case.

10. The offer of compassionate appointment is only by way of immediate grant of employment assistance to the family of the deceased-employee. Such offer cannot be kept pending for years together for the petitioner to avail such assistance at this distant point of time.

11. Unless the petitioner is able to come up with a clear case for grant of relief in relation to the scheme of compassionate appointment, such stale or belated claim cannot be entertained by this Court at all.



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12. In the above factual narrative, this Court finds that the claim of the petitioner is hopelessly time barred and cannot be entertained at this stage even for a second. Accordingly, this Writ Petition is dismissed. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

CS
To

The Chief Educational Officer,
Near Boys Higher Secondary School,
Krishnagiri-635 001.

+1 CC to Mr.K.Govi Ganesan, Advocate sr 64225
+1 CC to The Government Pleader sr 64391.

W.P.No.32029 of 2019

KSM(CO)
SP(21/12/2021)