



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A. (MD)No.581 of 2012

G.Venkatesh

... Appellant /Petitioner

-Vs-

The District Collector,
Pudukottai District,
Pudukottai.

... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.(MD)No.133 of 2011, dt:08.03.2012 and allow the Writ Appeal.

Prayer in WP(MD). 133/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of endorsement bearing Na.Ka.No.47186/07, A3 dated 27/01/2009 issued by the respondent and quash the same and consequently direct the respondent to grant appointment on compassionate grounds, to the Writ petitioner.

For Appellant	: Mr.Antony Arulraj
For Respondent	: Mr.M.Murugan Government Advocate

JUDGMENT

(Order of the Court was delivered by **S. KANNAMMAL, J.**)

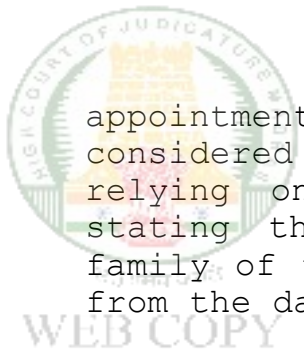
The instant Writ Appeal is directed against the order, dated 08.03.2012 made in W.P (MD)No.133 of 2011.

2.The short facts leading to the filing of Writ Appeal are as follows:

The father of the writ petitioner/appellant namely Mr.M.Ganesan, died on 02.03.1993, while serving as an Office Assistant in Revenue Department, leaving, behind the petitioner and his mother.

3.The writ petitioner was not able to make any application seeking compassionate appointment since he did not attain majority and he was only 5 years old child at the time of his father's death.

4.Subsequently, the petitioner had applied for compassionate
<https://hcservices.ecourts.gov.in/hcservices/>



appointment only on 04.07.2007, but the said representation was not considered and rejected by the respondent in Na.Ka.No.47186/07/A3 by relying on a Government Letter (Ms.) No.202, dated 08.10.2007 stating that the application for compassionate ground from the family of the deceased was not sent within a period of three years from the date of death of of Mr.M.Ganesan.

5.Aggrrieved by the said order, the appellant had preferred the Writ Petition in W.P(MD)No.133 of 2011 to quash the impugned order, dated 27.01.2009 issued by the respondent and to give appointment to the petitioner on compassionate ground. The respondent had filed a counter affidavit, wherein also it was stated that application for appointment on compassionate ground should be made within a period of three years from the date of death of the Government servant, whereas the petitioner had filed the application nearly after a lapse of fourteen years and the application was rightly rejected.

6.After hearing the learned counsel for the parties, the learned Single Judge vide order dated 08.03.2012, dismissed the said Writ Petition and rejected the plea of the writ petitioner/appellant for appointment on compassionate ground, which is under challenge in this writ appeal.

7.Heard the learned counsel appearing for the appellant and the learned Government Advocate appearing for the respondent and perused the materials placed before this Court.

8.The learned counsel for the appellant would submit that the Government Letter (Ms.) No.202, dated 08.10.2007 would not be applicable to the present case, since the application for compassionate ground has been filed before the issuance of the said Government Letter.

9.But from the Government Letter (Ms.) No.202, dated 08.10.2007 it is made clear that the time limit shall be three years for filing of application from the date of the death of the Government Servant and is applicable to all cases, including where the Government Servant had died in harness even prior to 26.06.1995.

10.The learned single Judge, while dismissing the Writ Petition, has placed reliance on the judgment of the Hon'ble Supreme Court in **State of Manipur Vs. MD.Rajaodin** reported in **2003 (7) SCC 511**, wherein at Paragraph No.12 it has been held as follows:

"12. In *State of U.P. v. Paras Nath* reported in 1998 (2) SCC 412 : 1998 SCC (L&S) 570, it was held that the purpose of providing employment to the dependant of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his



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unexpected death while in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointments. None of these considerations can operate when the application is made after a long period of time."

Further, the judgment of the Hon'ble Supreme Court in **State of Jammu & Kashmir Vs. Sajad Ahmed Mir**, reported in **2006(4)MLJ 604** has also been relied.

11.In furtherance, the learned single Judge, pointing out a decision of the Division Bench of this court in **M.Raju Vs. Union of India** reported in **2009 (4) MLJ 237**, which held that the application made seeking appointment on compassionate ground after lapse of a reasonable time cannot be considered.

12.In the present case on hand, the appellant had waited till attaining majority and at the age of 19 that is after 14 years from the date of death of his father had applied for compassionate ground on 04.07.2007 and was rejected by the respondent on 27.01.2009. The appellant had preferred a Writ Petition in the year 2011, which was rightly dismissed by the learned single Judge.

13.In view of the above, we are of the view that the learned Single Judge has rightly dismissed the Writ Petition with clear reasoning. Therefore, no interference is required at the hands of this Court. Hence, the Writ Appeal is liable to be dismissed. Accordingly, this Writ Appeal stands dismissed by confirming the order dated 08.03.2012 passed in W.P (MD)No.133 of 2011. No costs.

Sd/-

Assistant Registrar (CSII)

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/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The District Collector,
Pudukottai District,
Pudukottai.

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KB(26.03.2021) 4P 2C

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