



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.688 of 2012

S.Venkateswaran

... Appellant/Petitioner

Vs.

1.The Additional Director,
Land Survey and Records Department,
Survey House, Chepakkam,
Chennai - 600 005.

2.The Assistant Director,
District Survey Office,
Tirunelveli - 627 009.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 14.09.2011 in W.P(MD)No.9086 of 2011.

Prayer in WP(MD). 9086/ 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 of the 2nd respondent in letter Oo.mu.a 11/14132/10 dated 26.11.2010 and quash the same and consequently direct the respondents to provide appointment on compassionate grounds to the petitioner.

For Appellant : Mr.N.Sundareshan

For Respondents : Mr.M.Murugan,
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA,J.)

This Writ Appeal is directed against the order 14.09.2011 in W.P(MD)No.9086 of 2011.

2.The brief facts of the case are as follows:

The appellant's mother was working as a Draughtsman in the office of the Assistant Director, District Survey Office, Tirunelveli. She was suffering from hysteria and was under treatment in a private hospital. Suddenly, she was found missing and hence, a police complaint was lodged. Later, it was found that she died in a road accident on 03.10.2003. On the date of the death of the appellant's mother, he was 10 years old having born on 03.10.1993.



The father of the appellant made an application before the first respondent on 27.02.2006 and thereafter, before the second respondent on 20.04.2006, seeking for employment on compassionate grounds. The second respondent vide letter dated 30.03.2006, had informed the appellant's father that he had to apply to the appointing authority for compassionate appointment. Therefore, once again the appellant's father applied to the second respondent, but the same was rejected by the second respondent stating that the application was made after three years. Thereafter, the appellant had made an application on 06.06.2011 after attaining majority. Since there was no response, the appellant had once again made an application before the first respondent. In the interregnum, the impugned order was passed by the second respondent. The impugned order states that the application for compassionate appointment ought to have been made within three years from the date of death of the employee. Challenging the said order of rejection, WP(MD)No.9086 of 2011 was filed.

3. The learned single Judge after elaborate consideration of facts and legal position, had dismissed the writ petition.

4. Heard Mr.N.Sundareshan, learned counsel appearing for the appellant and Mr.M.Murugan, learned Government Advocate appearing for the respondents and perused the materials available on record.

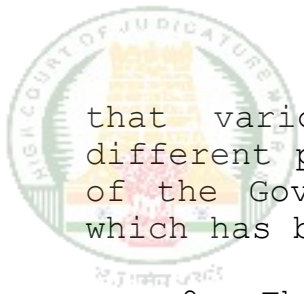
5. The only question that arises for determination is,

"Whether the appellant is entitled for compassionate appointment?"

6. The mother of the appellant died on 03.10.2003 and there were several Government Orders governing the scheme of compassionate appointment. All the Government Orders prevalent on the relevant date prescribed only three years time limit from the date of the death of the person, to make an application for compassionate appointment. Any compassionate appointment is only a succour to the family at the time of hardship and distress. Such compassionate appointment are permissible only in the last category of Class-III and Class-IV post. The appellant was a minor thus, ineligible for appointment on the date of death of his Mother.

7. It would be appropriate to advert to the decision of the Honourable Full Bench dated 11.03.2020 in WP(MD)No.7016 of 2011 etc., batch, wherein it is specifically made clear that compassionate appointment cannot be made in the absence of Rules and Regulations issued by the Government Authorities and any request has to be considered strictly in accordance with Government Orders.

8. Admittedly, a compassionate appointment is a deviation from the regular procedure of recruitment intended to meet the sudden services in the family. The Full Bench also had observed



that various Government Orders provided different schemes at different points of time. The scheme available on the date of death of the Government employee is only applicable and not the scheme which has been framed after the cause of action had arisen.

9. The Honourable Supreme Court in a recent judgement in **N.C.Santhosh V. State of Karnataka, 2020 (7) SCC 617**, held as follows:

"19. Applying the law governing compassionate appointment culled out from the above cited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependant of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee."

At this juncture, it would be appropriate to advert to G.O.(Ms). No.18, Labour and Employment (Q1) Department, dated 23.01.2020, in which, comprehensive guidelines are issued for appointment on compassionate grounds. The said G.O(Ms)No.18, prescribes only three years time limit from the date of death of the Government servant for making an application for appointment on compassionate ground.

10. In the light of the above, the application made by the appellant long after the death of the Government employee, cannot be considered and the learned Single Judge had rightly dismissed this writ petition.

11. Therefore, we find no reason to interfere with the same in the light of the above discussion and the latest Government Order issued in G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, in this regard. Accordingly the writ appeal is dismissed. No Costs.

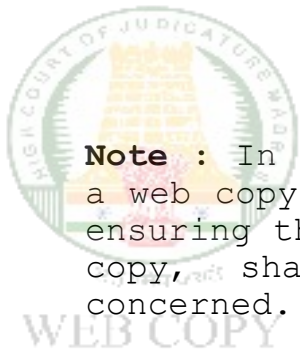
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /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:

1.The Additional Director,
Land Survey and Records Department,
Survey House, Chepakkam,
Chennai - 600 005.

2.The Assistant Director,
District Survey Office,
Tirunelveli - 627 009.

+1CC to THE SPECIAL GOVERNMENT PLEADER(SR-10139[F] dated 10/03/2021)

Order made in
W.A(MD)No.688 of 2012
09.03.2021

MJ(CO)
SRS (19/03/2021) 4P : 4C