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WP[MD]/No.6855 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.[MD]No.6855 of 2021

and

W.M.P.[MD]No.5268 of 2021

A.Jeyanthi

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department, Secretariat,
Chennai - 9.
2. The Commissioner,
Hindu Religious & Charitable Endowments,
Nungambakkam, Chennai - 34.
3. The District Collector,
Kanyakumari District at Nagercoil.
4. The Deputy Commissioner / Executive Officer,
Incorporated and Un-Incorporated Devaswoms,
Suchindram Thanmumalayan Koil,
Suchindram,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the fourth respondent impugned order in Na.Kaa.No.1341/2019/UI dated 26.12.2020 and quash the same and consequently to direct the fourth respondent to pass orders in the light of order passed by this Court in W.P.[MD] No.25834 of 2019 dated 16.12.2019.

For Petitioner : Mr.S.Ramasamy

For Respondents 1&2 : Mr.K.P.Narayana Kumar
Special Government Pleader

For Respondent No.3 : Mr.A.Muthukaruppan
Additional Government Pleader

For Respondent No.4 : Mr.K.Sathiya Singh
Standing Counsel

O R D E R



By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The case of the petitioner is that the petitioner's father was working as a Watchman in the temple that comes under the fourth respondent Devaswoms. The petitioner's father died on 17.01.1996, while he was in service. Thereafter, the petitioner gave an application for appointment on compassionate grounds on 18.01.2006. The said application was not considered. Hence, the petitioner filed W.P.[MD]No.49978 of 2006, wherein this Court issued a direction to the respondents to consider the representation of the petitioner. Thereafter, the petitioner's application was rejected on 13.06.2007. Aggrieved over the same, the petitioner filed another Writ Petition in W.P.[MD]No.7478 of 2008 and this Court by its order dated 12.11.2018, set aside the order of rejection and remanded the matter for fresh consideration. Again an order of rejection was passed by the fourth respondent dated 26.12.2020, on the ground of delay in submitting the application for compassionate appointment. As against which, the present writ petition has been filed.

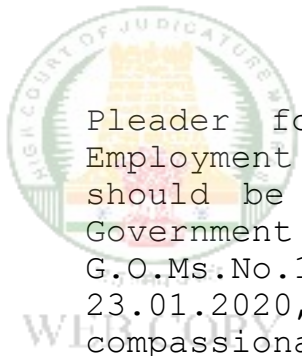
3.The learned Counsel for the petitioner would submit that initially, considering the petitioner's financial hardship, the temple authorities were ready to offer a last grade post to the petitioner. However, the said post was not accepted. Now, the petitioner is ready to accept any post offered by the temple authorities. Hence, this Court may issue a direction to the authorities to offer any post to the petitioner.

4.The learned Special Government Pleader appearing for the respondents submitted that as per G.Os.No.120, Labour and Employment Department, the application for compassionate appointment should be made within three years from the date of death of a Government Servant. But, in the present case, the petitioner submitted his application after three years from the date of death of her father. Therefore, the said application was rejected on the ground of delay and not on the ground of want of qualification. Therefore, the impugned proceedings does not warrant any interference.

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

6.The petitioner's father, who was working as a Watchman in the respondent Corporation, died on 17.01.1996. But, the petitioner submitted the application for compassionate appointment only on 18.01.2006, i.e. after ten years from the date of death of his father.

7.As rightly contended by the learned Special Government



Pleader for the respondents, as per G.O.Ms.No.120, Labour and Employment Department, the application for compassionate appointment should be made within three years from the date of death of a Government servant. Subsequently, the said G.O. was reiterated in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, in which, the time limit, for making an application for compassionate appointment, was fixed within three years from the date of death of a Government servant. As per the said G.Os, the petitioner should have submitted her application for compassionate appointment, within three years, but, she did not do so. But, she submitted her application only on 18.01.2006, i.e. after ten years from the date of death of her father. Though it is the contention of the petitioner that since she was minor, she could not approach the respondent Corporation and submit her application in time, the same cannot be taken into account. Therefore, the respondent Corporation has rightly rejected the application for compassionate appointment on the ground that it was a belated application. Moreover, the purpose of providing employment on compassionate grounds is to tide over the financial crisis of the deceased family and there must be a proof as to the deceased family is in a penurious condition. In the present case, the petitioner has not produced any document to prove that her family is in a penurious condition.

8.In this regard, the Division Bench of this Court also, in **W.A.No.3899/2019 [P.Poongodi vs. The Chairman]**, held as under:

"The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly."

9.In the light of the above decision and also considering the fact that the petitioner submitted her application after ten years from the date of death of her father and she has also not produced any document to prove that her family is in a penurious condition, the present writ petition is wholly unsustainable in law.



Accordingly, the writ petition is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/ True Copy /

/ / 2021

Sub Assistant Registrar (CS)

MR

To

1. The Secretary to Government,
Government of Tamil Nadu,
Home Department, Secretariat,
Chennai - 9.
2. The Commissioner,
Hindu Religious & Charitable Endowments,
Nungambakkam, Chennai - 34.
3. The District Collector,
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4. The Deputy Commissioner / Executive Officer,
Incorporated and Un-Incorporated Devaswoms,
Suchindram Thanmumalayan Koil,
Suchindram, Kanyakumari District.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-13975[F]
26/03/2021)

dated

+1 CC to M/s.SPL GP (SR-14083[F] dated 29/03/2021)

W.P. [MD]No.6855 of 2021

26.03.2021

SSI (05.05.2021) 4P 7C