



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.1691 of 2019

S.Ajithkumar

... Petitioner

Vs.

1.The State of Tamilnadu,
represented by its Principal Secretary,
Department of Municipal Administration,
and Water supply,
Secretariat,
Chennai-600 009.

2.The Commissioner/Director,
Commissionerate of Municipal Administration,
Chepauk,
Chennai-05.

3.The Commissioner,
Trichy Corporation,
Trichy.

... Respondents

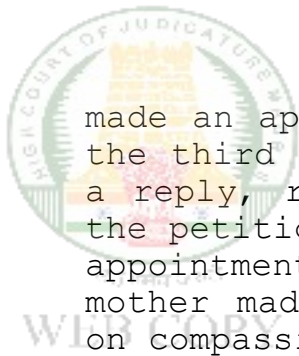
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus, to direct the respondent No.2 to appoint the petitioner on compassionate ground with the respondent No.3 Corporation for any suitable post on the basis of his educational qualification with consequential benefits within the time period stipulated by this Court.

For Petitioner	: Mr.T.Thirumurugan
For R1 and R2	: Mr.S.Shanmugavel Standing Counsel.
For R3	: Mr.R.Baskaran Standing Counsel

ORDER

This Writ Petition has been filed seeking the relief of Writ of Mandamus, to direct the respondent No.2 to appoint the petitioner on compassionate ground with the respondent No.3 Corporation for any suitable post on the basis of his educational qualification with consequential benefits within the time period stipulated by this Court.

2.The petitioner's father namely Saravanan was working as Revenue Assistant in the third respondent corporation and he died on 15.07.2011 while he was in service. After his demise, the petitioner



made an application seeking compassionate appointment to him before the third respondent. On 20.06.2017 the third respondent has given a reply, rejecting the claim of the petitioner on the ground that the petitioner was a minor when the representation for compassionate appointment was made. Thereafter on 08.07.2017 the petitioner's mother made a representation seeking appointment to the petitioner on compassionate grounds. The same was also rejected by order dated 14.07.2017. Again on 15.10.2018, the petitioner made an application to the third respondent with no objection certificate in favour of him from the other legal heirs. Since no action has been taken, this Writ Petition has been filed.

3.The learned Standing Counsel for the respondent corporation would submit that the writ petitioner's mother had submitted an representation on 06.06.2014 and on the said representation, a notice was sent to the writ petitioner's mother to furnish the certificate from the Tahsildar, Educational certificate and the Death Certificate of the petitioner. Thereafter, no response has been received from the petitioner's mother.

4.The learned Standing Counsel for the respondent further submitted that the petitioner's second application was not maintainable as the same is submitted beyond the prescribed period of three years.

5.I carefully considered the rival submissions made by the learned counsel on both sides and perused the materials available on record.

6.It is an undisputed fact that the petitioner's mother has submitted an application on 06.06.2014 to the third respondent corporation and on the said application, the third respondent has served a notice to the petitioner's mother for producing the materials and required documents to prove the petitioner's eligibility for grant of employment on compassionate grounds. Since the same was not furnished by the petitioner, the petition was closed. As rightly rejected by the third respondent, the petitioner was a minor on 06.06.2014 when the application seeking appointment on compassionate grounds by the petitioner's mother.

7.Identical issue came up before the Honourable Division Bench of this Court in W.A.No.1749 of 2019 (***Sudhanthira Devi vs. The State of Tamil Nadu and others***) [in the said Judgment, myself (DKKJ) is one of the member] and the Division Bench, by Judgment dated 03.09.2019, following the decisions of the Honourable Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

8. In ***Government of India and another v. P.Venkatesh [(2019) 15 SCC 613]***, the Honourable Supreme Court has held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>



"8. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.

9. ...

10. Bearing in mind the above principles, this Court held: (Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

9.The Honourable Full Bench in Paragraph No.13 of the Judgment dated 11.03.2020 in W.P. (MD) No.7016 of 2011 has held as follows:

"13. In the light of the above we find that the judgment in the case of A.Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E.Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of



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the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."

10.By following the above judgments, this Court finds no illegality or irregularity in the order passed by the respondent, rejecting the claim of the petitioner.

11.In fine, the writ petition fails and it is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Principal Secretary,
The State of Tamilnadu,
Department of Municipal Administration, and Water supply,
Secretariat, Chennai-600 009.

2.The Commissioner/Director,
Commissionerate of Municipal Administration,
Chepauk, Chennai-05.

3.The Commissioner, Trichy Corporation, Trichy.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-27259[F]
dated 25/08/2021)

+1 CC to M/s.SPL GP (SR-27214[F] dated 25/08/2021)

+1 CC to M/s.SPL GP (SR-27218[F] dated 25/08/2021)

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