



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.4934 of 2019

WEB COPY

K.Santhanaraman

... Petitioner

-vs-

1.The Principal Secretary to Government,
School Education Department,
Fort. St. George,
Chennai.

2.The Director,
School Education Department,
DPI Campus, College Road,
Chennai - 06.

3.The District Educational Officer,
Pattukottai.

4.The Block Educational Officer,
Peraoorani, Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned proceedings of the 3rd respondent in O.Mu.No.2607/A1/2018, dated ..08.2018 signed on 16.08.2018 and consequential proceedings issued by the 4th respondent in O.Mu.No.797/A/2018, dated 04.10.2018 and quash the same as illegal and consequently direct the respondents to provide employment to the petitioner under compassionate appointment within the time limit fixed by this Court.

For Petitioner : Ms.Meena for S.Manikandan

For Respondents : Mr.A.K.Manickam,
Standing Counsel for Govt.

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated ...08.2018, signed on 16.08.2018, passed by the third respondent and the consequential proceedings of the fourth respondent dated 04.10.2018 and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.



2. The case of the petitioner is that his father was working as Office Assistant in the Assistant Elementary Educational Office, Peraoorani and he died on 18.01.1998, while he was in service. On 28.07.2017, the petitioner made an application to the respondents seeking compassionate appointment. However, the request of the petitioner was rejected on the ground that the application was not made within the prescribed period of three years. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that at the time of death of the petitioner's father, the petitioner was 1 year and 6 months old and therefore, he could not submit application, however, after attaining the majority, he submitted application on 28.07.2017 along with requisite certificates. The learned counsel further submitted that since the petitioner has lost his father and mother and he is suffering a lot without any job and income, his case may be considered for compassionate appointment.

4. The learned Government Counsel appearing for the respondents submitted that as per the Government Order in G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the time limit to prefer application for compassionate appointment is three years from the date of death of the employee. But, the petitioner herein submitted application after a lapse of nearly nineteen years and hence, the third respondent has rightly rejected the petitioner's application for compassionate appointment.

5. I have anxiously considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. 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.

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

"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."

8. 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 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."



9. Furthermore, G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, has clearly prescribed the time limit to prefer application for compassionate appointment as three years from the date of death of the Government servants.

10. In the case on hand, admittedly, the petitioner's father died on 18.01.1998 and the petitioner submitted application for compassionate appointment only on 28.07.2017, nearly after nineteen years. Therefore, in view of the above settled legal position, the claim of the petitioner made beyond the prescribed period of three years cannot be entertained and it deserves to be rejected. Accordingly, the impugned order does not warrant any interference of this Court.

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

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

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+1 CC to M/s.GP (SR-26736[F] dated 19/08/2021)

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