



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.5962 of 2019

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Anandraj,

... Petitioner

vs.

The Municipal Commissioner,
Municipal Office,
Pudukkottai.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 05.10.2018 in Na.Ka.No:C1/3591/2018 of the respondent and quash the same and consequently appoint the petitioner in any suitable post under the compassionate appointment in the respondent office.

For Petitioner : Mr.J.Anandkumar
For R1 : Mr.S Shanmugavel
Standing Counsel for State
For R-2 : Mr.P.Mahendran,
Standing Counsel for R-2

ORDER

This Writ Petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 05.10.2018 in Na.Ka.No:C1/3591/2018 passed by the respondent and quash the same and consequently appoint the petitioner in any suitable post under the compassionate appointment in the respondent office.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the second respondent.

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

4. According to the petitioner, his parents who were working as Sweeper in the respondent Municipality, died in harness on 19.09.2012 and 16.11.2013 and after their death, family of the deceased employees was facing hardships for livelihood and in such circumstances, the petitioner applied for grant of compassionate appointment on 11.09.2014 in person and thereafter, he was approaching the respondent, but no positive reply was forthcoming



from him. Again the petitioner sent a representation dated 06.04.2018 to the respondent. However, by the impugned order dated 05.10.2018, the respondent rejected the claim of the petitioner. Aggrieved by the same, the petitioner has come forward with the present Writ Petition.

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5. The learned Standing counsel appearing for the second respondent would submit that the petitioner has made a representation belatedly after the prescribed period of three years and by relying on G.O.Ms.No.120 Labour and Employment Department, dated 26.06.1995, the respondent has rightly rejected the application made by the petitioner. He disputed the representation and the seal made therein, dated 11.09.2014 alleged to have been made by the petitioner and on verification, he submitted that it is not a genuine one and stamp and seal made therein, are not authenticated and cannot be relied on.

6. An 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, one of us(DKKJ) passed orders], 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. 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."

8. Admittedly, the petitioner has not made the application within the time limit as prescribed in G.O.Ms.No.120 Labour and Employment Department, dated 26.06.1995 as per which, the application for appointment on compassionate grounds should be made within three years of the death of Government Servant. But the



petitioner made the representation only on 06.04.2018, i.e. beyond the prescribed time limit. In the absence of the material to show that the petitioner made application in time, this Court cannot extend the benefit contrary to the terms of the G.O.

9. In the light of the above decisions supra, no relief can be granted as there is no illegality in the impugned order of the respondent in Na.Ka.No:C1/3591/2018 dated 05.10.2018. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Municipal Commissioner,
Municipal Office,
Pudukkottai.

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-28420[F] dated 07/09/2021)
W.P.(MD) No.5962 of 2019
07.09.2021

MGJ(04.10.2021) 3P 3C