



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2021

CORAM:

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

W.P. (MD) No.5981 of 2019

WEB COPY

Murugan,

... Petitioner

vs.

1.The Director of Municipal Administration,
Chepauk,
Chennai.

2.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 impugned order dated 29.11.2018 in A.Thi.Mu.No:10972/2018/D1 of the 2nd respondent and quash the same and consequently direct the 2nd respondent to consider the petitioner's application and provide him appointment on the ground of compassionate appointment.

For Petitioner	: Mr.J.Anandkumar
For R-1	: Mr.S.Shanmugavel, Standing Counsel for the State
For R-2	: Mr.P.Mahendran, Standing Counsel for R-2

O R D E R

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 impugned order dated 29.11.2018 in A.Thi.Mu.No:10972/2018/D1 of the 2nd respondent and quash the same and consequently direct the 2nd respondent to consider the petitioner's application and provide him appointment on compassionate ground.

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

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 father, who was working as Sweeper in the respondent Municipality, died in harness on 04.01.2008 and after his death, the family was put to suffer to eke out livelihood. Hence, the petitioner applied to the 3rd respondent in the year 2009 for grant of compassionate appointment to him and he produced all the documents including no objection from other legal heirs of the deceased employee and thereafter, he was approaching the respondent, but no positive reply was forthcoming from him. Again the petitioner sent a representation dated 27.11.2018 to the respondents. However, by the impugned order dated 29.11.2018, the respondent rejected the claim of the petitioner. Aggrieved by the same, the petitioner has come forward with the present Writ Petition.

5. The learned counsel for the petitioner would submit that the petitioner made application in the year 2010 and he also submitted that the petitioner made an application 23.12.2009 addressed to the Chief Minister's Cell which is well within the prescribed time and the same was forwarded to the Director, Municipal Administration vide proceedings dated 27.01.2010, who in turn advised to approach the concerned authority and thereafter, the petitioner made application to the respondents, but it was rejected, which cannot be sustained.

6. The learned Standing counsel appearing for the respondents would submit that the petitioner has made 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 3rd respondent has rightly rejected the application made by the petitioner. He disputed the application sent to the Chief Minister cell as there is no proper seal and acknowledge and hence, the same cannot be relied on.

7. 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***) 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. 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. 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 27.11.2018, 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.

10. In the light of the above decisions supra, no relief can be granted as there is no illegality in the impugned order of the 2nd respondent dated 28.11.2018 in A.Thi.Mu.No:10972/2018/D1. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Director of Municipal Administration,
Chepauk,
Chennai.

2.The Municipal Commissioner,
Municipal Office,
Pudukkottai.

+1 CC to M/s.GP (SR-28518[F] dated 08/09/2021)

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MGJ(04.10.2021) 3P 4C