



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.6383 of 2019

and W.M.P. (MD)No.5088 of 2019

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S.Ragul Ganth

... Petitioner

Vs.

1.The Director,
Department of Public Health and
Prevention of Disease,
Chennai.

2.The Deputy Director,
Public Health Department,
Sivagangai.

3.The Regional Medical Officer,
Government Primary Health Centre,
Velayuthapattinam @ Thiruvegamputhur,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records of the third respondent in his impugned order in Na.Ka.No.0589/A1/2012 dated 27.02.2019 and quash the same is passed without jurisdiction and consequently direct the respondents to appoint the petitioner as a compassionate appointment within the period stipulated by this Court.

For Petitioner : Mr.R.Murali
For Respondents : Mr.A.K.Manickam,
Standing Counsel.

ORDER

This Writ Petition has been filed challenging the order passed by third respondent dated 27.02.2019 and to direct the respondents to appoint the petitioner on compassionate ground.

2.The case of the petitioner is that his mother was working as Village Health Nurse in Primary Health Centre, Monnikaimongudi Centre and she died on 18.08.2009, while she was in service. On 28.06.2011, the petitioner's father submitted an application seeking compassionate appointment for the petitioner. The petitioner's sister viz., R.Surya, also submitted a letter to the respondents to consider the petitioner under compassionate appointment. However, the said application was rejected by the third respondent on the



ground that the petitioner has not completed the age of 18 years at the time of submitting the application. Challenging the same, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioner would submit that the application was rejected after a period of eight years and at the time of passing the rejection order, the petitioner was become major. The said aspect was not considered by the respondents. Therefore, the impugned order is liable to be set aside.

4.The learned Standing Counsel for State appearing for the respondents submitted that as per G.O.Ms.No.155, Labour and Employment (QD) Department, dated 10.12.2014, the legal heirs should have the minimum age of 18 years at the time of submitting the application for compassionate appointment. He further submits that at the time of submitting the application, the petitioner was only 17 years and he has not completed the age of 18 years and therefore, in the light of the Government Order, the impugned order is perfectly in order and it does not call for any interference.

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



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. In the considered opinion of this Court, the scheme for compassionate appointment was framed only to enable the family to get over the financial crisis and the same was not framed under the Constitution of India. There is no rule or Government Orders for granting further time to consider the application for compassionate appointment, if the applicant is minor at the time of submitting the application. In the absence of any such provision in the scheme, this Court cannot traverse beyond the policy taken under the scheme and give direction to the respondents to grant the relief to the petitioner.



10.In view of the reasons cited supra, there is no merit in this Writ Petition and the same is liable to be dismissed. However, it is open to the petitioner to approach the Government for granting any relaxation. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

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 Director,
Department of Public Health and
Prevention of Disease,
Chennai.

2.The Deputy Director,
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Sivagangai.

3.The Regional Medical Officer,
Government Primary Health Centre,
Velayuthapattinam @ Thiruvegamputhur,
Sivagangai District.

+1 CC to M/s.R. MURALI, Advocate (SR-28035[F] dated 03/09/2021)

+1 CC to M/s.GP (SR-28040[F] dated 03/09/2021)

W.P(MD)No.6383 of 2019
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RS (15.09.2021) 4P 6C