



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.13169 of 2021

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... Petitioner

Vs.

1.The Principal Secretary,
Commissionerate of Treasuries and Accounts,
Integrated Complex for Finance Department,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Treasury Officer,
District Treasury,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to consider her representation dated nil for appointment under Compassionate ground for the death of her deceased father T.Pasaliyooseand.

For Petitioner : Mr.Aravind Raj
For Respondents : Mr.S.Shanmugavel
Government Counsel

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus to consider the petitioner's representation dated nil for appointment under Compassionate ground for the death of his deceased father T.Pasaliyooseand.

2.The case of the writ petitioner is that the petitioner's father was working as Selection Grade Junior in the District Treasury Nagercoil, Kanyakumari District. and he died in harness on 23.04.1998, while he was in service. The petitioner's father died leaving behind the petitioner, his mother and his grand parents. The Writ Petitioner is son of the deceased employee. The petitioner was minor at the time of death of his father. Thereafter petitioner's mother submitted an application to the second respondent seeking appointment on compassionate grounds. The aforesaid application was kept idle without any progress. Thereafter, the petitioner on attaining majority and after completing his education, has immediately submitted an application



for appointment on compassionate grounds. However, so far, no order has been passed by the respondents. Hence, the present Writ Petition.

3.The learned Government Counsel appearing for the respondents would submit that it is mandate that while applying for compassionate appointment, the candidate must be a major and possessed requisite education qualification. Furthermore, 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 was minor at the time of death of his father and after attaining majority and completed his education, he has submitted the application only 02.11.2020, after a lapse of nearly 22 years. Hence, the respondents cannot consider the petitioner's application for compassionate appointment.

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

5.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.

6.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,

the Court held: (***Umesh Kumar Nagpal v. State of***



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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."

Judgment 7.The Honourable Full Bench in Paragraph No.13 of the **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.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.

9.In the case on hand, admittedly, the petitioner's father died on 23.04.1998 and the petitioner, after attaining majority and completing his education, submitted his application for compassionate appointment only on 02.11.2020, nearly after a lapse of 22 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.

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

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Sd/-

Assistant Registrar (CS II)

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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 Principal Secretary,
Commissionerate of Treasuries and Accounts,
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3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Treasury Officer,
District Treasury,
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Kanyakumari District.

+1 CC to M/s.The Special Government Pleader (SR-25889[F] dated
11/08/2021)

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RS (26.08.2021) 4P 4C