



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
W.P (MD)No.7623 of 2019
and
W.M.P. (MD)No.6059 of 2019

K.Sathishkumar

... Petitioner

Vs.

1.The District Collector,
District Collector's Office,
Trichy-1, Trichy District.

2.The Tahsildar, (West),
West Taluk Office,
Trichy, Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent proceedings made in O.Mu.A4-6946-2018, dated on 30.04.2018, quash the same, and further direct the first respondent to consider the petitioner's compassionate appointment due to the death of the petitioner's father during service.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.S.Shanmugavel
Standing Counsel.

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent made in O.Mu.A4-6946-2018, dated on 30.04.2018, quash the same, and further direct the first respondent to consider the petitioner's compassionate appointment due to the death of the petitioner's father during service.

2.The learned counsel for the petitioner submitted that the petitioner's father namely Koolraj who was working as Village Assistant at Varaganeri Village, Trichy West Taluk, Trichy, was died on 29.03.2005. After the death of his father, the petitioner's mother namely Mariammal has made an application sought for appointment on compassionate grounds. Since she is not qualified



for the post, she has made another application sought appointment on compassionate grounds to her daughter namely Kohila on 17.07.2007 addressed to the Chief Minister Redress Cell, Chennai and the said application was forwarded to the second respondent for further course of action.

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3. It is further submitted by the learned counsel for the petitioner that the second respondent has conducted an enquiry. The enquiry revealed that the said Kohila got married at that time and vide proceedings in Moo.Moo.A4/13855/2012 dated 30.04.2015, the first respondent herein rejected the request of the petitioner's mother on the ground that the petitioner's mother had not applied for compassionate appointment within a period of three years from the date of death of the petitioner's father and the petitioner was not attained the age of majority.

4. The learned counsel for the petitioner further submitted that after the rejection of appointment for the said Kohila, the petitioner's mother made an application to the first respondent, seeking appointment for the petitioner on 10.02.2015. Since no action has been taken, the petitioner made an representation to the first respondent on 16.03.2018, seeking appointment on compassionate grounds. The said representation was rejected by the first respondent vide order dated 30.04.2018 in O.Mu.No.6946-2018 on the ground that on the date of application made by the petitioner's mother, ie., on 17.07.2007, the writ petitioner has not attained majority and the petitioner has made an application on 16.03.2018 after a lapse of several years. Therefore, the said application was rejected on the ground of laches and also earlier application submitted by the petitioner was also rejected.

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, 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."

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.By following the above judgments, this Court finds no illegality or irregularity in the order passed by the respondent in O.Mu.No.6946-2018 dated 30.04.2018, rejecting the claim of the petitioner.



9. In fine, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 District Collector,
District Collector's Office,
Trichy-1, Trichy District.

2. The Tahsildar, (West),
West Taluk Office,
Trichy, Trichy District.

+1 CC to M/s.GP (SR-27189[F] dated 25/08/2021)

W.P (MD) No. 7623 of 2019
23.08.2021

MGJ(13.09.2021) 4P 4C