



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.7799 of 2019

S.Karthika Devi

... Petitioner

-vs-

1.The Commissioner,
Municipal Administration,
Ezhilagam,
Chepak, Chennai - 600 005.

2.The Commissioner,
Dindigul Corporation,
Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned order dated 08.11.2018 vide O.Mu.No.27406/2018/H2 passed by the 1st respondent and quash the same as arbitrary and illegal and consequently direct the respondents to appoint the petitioner in suitable job under compassionate appointment based on her applications dated 24.01.2011 and 03.10.2018.

For Petitioner : Mr.A.Arul Jenifer

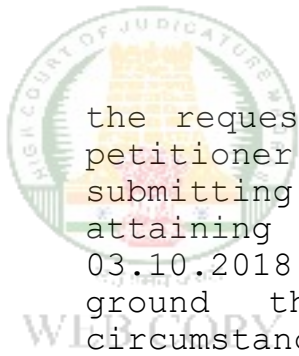
For Respondents : Mr.A.Manickam,
Standing Counsel for Government for R1

Mr.J.Lawrance,
Standing Counsel for R2

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 08.11.2018, passed by the first respondent and to direct the respondents to appoint the petitioner in suitable job under compassionate appointment based on her applications dated 24.01.2011 and 03.10.2018.

2. The case of the petitioner is that her father was working as Shutter Operator in Authur Kamarajar Sagar Reservoir and he died on 17.02.2008, while he was in service. On 24.01.2011, the petitioner made an application to the respondents seeking compassionate appointment, within the three years period. However,



the request of the petitioner was rejected on the ground that the petitioner did not attain the age of 18 years at the time of submitting the application. Thereafter, the petitioner, after attaining the age of majority, has submitted an application on 03.10.2018. However, the said application was also requested on the ground that the petitioner's family is not in indigent circumstances, because the petitioner has completed her graduation. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the reason for rejecting the request of the petitioner is unsustainable, because the petitioner has completed her graduation under scholarship. Therefore, the same is liable to be set aside.

4. The learned Standing Counsel appearing for the second respondent Municipality submits that the petitioner's mother has not chosen to apply for compassionate appointment in the respondent Municipality and the petitioner has sought for compassionate appointment. At the time of submitting the application, the petitioner was minor and after attaining the majority, she submitted an application after a lapse of 10 years and hence, the first respondent has rightly rejected the application for compassionate appointment.

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



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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.

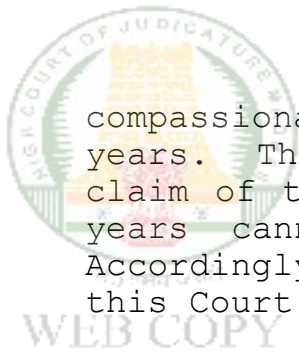
10. Bearing in mind the above principles, this Court held: (Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"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."

Judgment 8. 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."

9. In the case on hand, admittedly, the petitioner's father died on 17.02.2008 and the petitioner submitted application for



compassionate appointment only on 03.10.2018, nearly after ten 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 the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 Commissioner,
Municipal Administration,
Ezhilagam,
Chepak, Chennai - 600 005.

2.The Commissioner,
Dindigul Corporation,
Dindigul.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-26724[F] dated 19/08/2021)

W.P. (MD) No.7799 of 2019

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RD(2.09.2021) 4P 4C