



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.16483 of 2019

K.Rajkumar

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Sivagangai.

2.The Block Development Officer,
Collectorate Campus,
Sivagangai.

3.The Commissioner,
Sivagangai Panchayat Union,
Collectorate Campus,
Sivagangai.

... Respondents

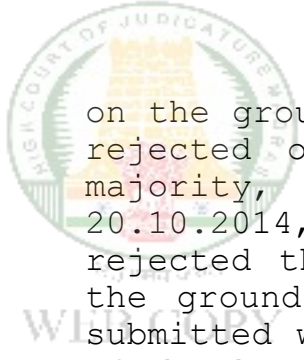
PRAYER: Petition filed under Article 226 of the Constitution of India, for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to impugned order of the first respondent in letter No.Na.Ka.P3/1913/2019 dated 14.02.2019 and quash the same and further direct the first respondent to provide employment on compassionate appointment to the petitioner.

For Petitioner	:	Mr.V.Chandrapandi
For Respondents	:	Mr.S.Shanmugavel
		Counsel for State
		for R1
		Mr.M.Rajarajan
		for R2

ORDER

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 14.02.2019, passed by the first respondent and to direct the first respondent to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that his father was working as Jeep Driver in the office of Sivagangai Panchayat Union and he died on 20.04.1998 while he was in service, leaving behind the petitioner, his mother and sisters as legal heirs. Thereafter, several applications were submitted by his mother and sisters to the respondents seeking appointment on compassionate grounds. The petitioner's mother representations were rejected by the respondents



on the ground of ineligibility and his sister's representations were rejected on the ground of time barred. Thereafter on attaining majority, the petitioner submitted a representation, dated 20.10.2014, to the first respondent. However, the first respondent rejected the petitioner's request, vide order dated 14.02.2019, on the ground that application for compassionate appointment was not submitted within the prescribed period of three years from the date of death of the petitioner's father and the petitioner was a minor at the relevant time. Challenging the same, the present writ petition has been filed.

3. The learned Government Counsel appearing for the respondents submitted 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, he submitted application after a lapse of nearly sixteen years and hence, the first respondent has rightly rejected 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, one of us (DKKJ) passed the order], 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)

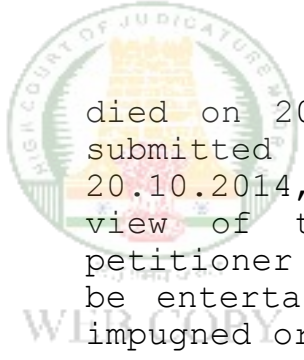
"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get 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."

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
<https://hcservices.ecourts.gov.in/hcservices/>



died on 20.04.1998 and the petitioner, after attaining majority, submitted application for compassionate appointment only on 20.10.2014, nearly after a lapse of sixteen 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.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The District Collector,
Collectorate,
Sivagangai.
- 2.The Block Development Officer,
Collectorate Campus,
Sivagangai.
- 3.The Commissioner,
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+1 CC to M/s.GP (SR-26908[F] dated 23/08/2021)

W.P. (MD) .No.16483 of 2019
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RD(24.09.2021) 4P 5C