



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.08.2021**

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.17711 of 2020

and

W.M.P. (MD)No.14802 of 2020

WEB COPY

Saranya

... Petitioner

Vs.

1.The Director General of Police,
Director General of Police Office,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

2.The Deputy Inspector General of Police,
D.I.G.Office, New Natham road,
Madurai - 625 002.

3.The Superintendent of Police,
District Superintendent of Police Office,
Madurai, Madurai- 625 007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the third respondent vide office proceeding in Na.Ka.No.P3/022556/244/2020 on the file of the third respondent dated 14.09.2020 and quash the same as illegal and consequently direct the respondents to give employment to the petitioner under compassionate appointment scheme by considering her education qualification.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.A.K.Manickam
Standing Counsel.

ORDER

This Writ Petition has been filed seeking the relief of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the third respondent vide office proceeding in Na.Ka.No.P3/022556/244/2020 on the file of the third respondent dated 14.09.2020 and quash the same as illegal and consequently direct the respondents to give employment to the petitioner under compassionate appointment scheme by considering her education qualification.



2.The petitioner's father namely Kumarasamy was serving as Police (I Grade) at Vikramangalam Police Station, Madurai District. He joined duty on 22.05.1988 and he died on 13.09.2004 while he was in service. After the death of the petitioner's father, the petitioner's mother has submitted an application on 11.11.2004 seeking appointment to her under compassionate grounds. According to the petitioner, while such application is pending, the petitioner attained majority and submitted an application to the respondent on 17.11.2016 claiming appointment on compassionate grounds. The said request of the petitioner was rejected by the respondent on the ground that the petitioner has made an application after a lapse of 14 years after the date of death of the deceased employee. According to the petitioner, the petitioner has attained majority and thereafter applied for the post on 17.11.2016.

3.The learned Standing Counsel for the petitioner would submit that the petitioner's mother had made her application on 11.11.2004 and the said application is still pending. The petitioner has made an application after he attained the age of 18 years on 17.11.2016, which is with a delay of 14 years.

4.I have carefully considered the rival submissions and perused the materials available on record.

5.It is seen that the petitioner has submitted application after attaining majority on 17.11.2016 with a delay of three years. The said application for compassionate appointment has not been made within a prescribed period of three years from the date of death of the deceased employee which cannot be admissible for grant of appointment under compassionate grounds.

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 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."

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.By following the above judgments, this Court finds no illegality or irregularity in the order passed by the third respondent in Na.Ka.No.P3/022556/244/2020 dated 14.09.2020 rejecting the claim of the petitioner.

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

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 Director General of Police,
Director General of Police Office,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
- 2.The Deputy Inspector General of Police,
D.I.G.Office, New Natham road,
Madurai - 625 002.
- 3.The Superintendent of Police,
District Superintendent of Police Office,
Madurai, Madurai- 625 007.

+1 CC to M/s.GP (SR-27381[F] dated 26/08/2021)

**W.P (MD) No.17711 of 2020
and**

**W.M.P. (MD) No.14802 of 2020
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RK (03.09.2021) 4P 5C

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