



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.A.(MD) No.1760 of 2021

WEB COPY

M.Muthuselvi

... Appellant/Petitioner

Vs.

1.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The District Collector,
Theni District,
Theni.

3.The Assistant Director of Survey and Land Records,
Collector's Officer,
Theni.

... Respondents/Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent Act, against the order dated 04.08.2021 in W.P(MD)No.14796 of 2018 on the file of this Court.

Prayer in WP(MD). 14796/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus calling for the records of the third respondent i.e., the Assistant Director of Survey and Land Records, Collectors Officer, Theni relating to his Na.Ka.No.1/280/18 dated 20.03.2018 and quash the same and consequently direct the first and second respondents i.e., the Principal Secretary to Government, Revenue Department, Chennai and District Collector, Theni to appoint the petitioner on compassionate grounds on the date of attaining majority i.e., on 15.04.2014.

For Appellant : Mr.S.Visvalingam

For Respondents : Mr.P.Thilak Kumar
Government Pleader



JUDGMENT

[Judgment of the Court was delivered by **The Hon'ble Chief Justice**]

The grievance of the appellant is that the writ court has failed to appreciate the appellant's plight and the appellant's right to obtain a compassionate appointment upon the death of the appellant's husband in the year 2002.

2. The admitted position is that the appellant applied for a compassionate appointment in the year 2009, nearly seven years after the death of her husband.

3. It cannot be overemphasised that compassionate appointment is an exception and not the rule. It has been judicially recognized that compassionate appointment is a rather weak right and the only justification therefor is to provide immediate relief to the bereaved family upon the untimely death of the breadwinner. Once it is seen that the family can tide over for a period of a few years, compassionate appointment is no longer relevant. In the present case, the appellant waited for a period of nearly seven years before making the application. It is evident from the appellant's conduct that it was not necessary to apply earlier. As such, the appellant cannot now be aggrieved by the refusal to grant the appointment on the ground of delay or upon the writ court declining to interfere with the matter.

4. High judicial authorities instruct that delay in such a scenario defeats the right. If the application had been made within reasonable time of the death of the concerned employee or if the application had been made pursuant to a scheme which recognized compassionate appointment as a right, the matter may have been different.

5. For the aforesaid reasons, the judgment and order impugned dated August 4, 2021 does not call for any interference.

6.W.A(MD)No.1760 of 2021 is dismissed. W.P(MD)No.14796 of 2018 is closed. There will be no order as to costs.

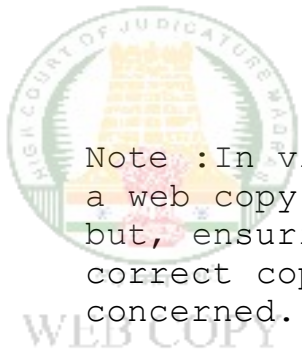
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note :In view of the present lockdown 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 to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The District Collector,
Theni District,
Theni.

3.The Assistant Director of Survey and Land Records,
Collector's Officer,
Theni.

+1 CC to M/s.SPL.GP (SR-32590[F] dated 26/10/2021)

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-32630[F] dated 26/10/2021)

**W.A. (MD) No.1760 of 2021
25.10.2021**

RK/PM (08/11/2021) 3P 6C