



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.18194 of 2019

Altrin Williams

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

2. The Chief Educational Officer,
Tiruppur District, Tiruppur.

3. The District Elementary Educational Officer,
Tiruppur District,
Tiruppur.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent passed in his proceedings Na.Ka.No.18/A1/2017 dated 23.02.2017 and quash the same and consequently direct the respondents to consider the petitioner for compassionate appointment.

For Petitioner : Mr.T.M.Madasamy

For Respondents : Mr.A.K.Manikkam,
Counsel for State.

O R D E R

The prayer in this writ petition is for the issuance of a writ of certiorarified mandamus to quash the order dated 23.02.2017, passed by the third respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that his mother was working as Secondary Grade Teacher in the Panchayat Union Primary School, Malayandi Goundanur, Udumalpet Panchayat Union, Tiruppur District and she died on 12.05.2008, while she was in service, leaving behind the petitioner, his father and sister as legal heirs. Thereafter on attaining majority, the petitioner's father submitted a representation, dated 28.12.2016, to the respondents seeking appointment for the petitioner on compassionate grounds. However, the third respondent rejected the aforesaid representation, vide order dated 23.02.2017, 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 mother 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 mother and after attaining majority, he submitted application after a lapse of nearly eight years and hence, the third 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 wherein one of us (DKKJ) passed orders in W.A.No.1749 of 2019 (***Sudhanthira Devi vs. The State of Tamil Nadu and others***), 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. ...



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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. 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 mother died on 20.04.1998 and the petitioner, after attaining majority, submitted application for compassionate appointment only on 28.12.2016, nearly after a lapse of eight 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.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Tiruppur District, Tiruppur.
3. The District Elementary Educational Officer,
Tiruppur District, Tiruppur.

+1 CC to M/s.GP (SR-26910[F] dated 23/08/2021)

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