



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1972 of 2021

Against WP(MD)No.21724 of 2018

Muniasamy

... Appellant / Petitioner

Vs.

1.The Director,
Public Health and Preventive Medicine,
DMS Campus,
Chennai - 600 006.

2.The Deputy Director,
Health Services,
Thoothukudi District,
Thoothukudi.

3.The Block Medical Officer,
Primary Health Centre,
Eral - 628 801,
Thoothukudi District.

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 16.08.2021 made in W.P(MD)No.21724 of 2018 on the file of this Court.

Prayer in WP(MD). 21724 of 2018 :Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order in Na.Ka.No.12854/A2/18 dated 16.05.2018, of the respondents and quash the same and consequently appoint the petitioner in a suitable vacancy under compassionate category and pass orders.

For Appellant

: Mr.L.Chandra Kumar
for Mr.U.Kasipandian

For Respondents

: Mr.P.Thilak Kumar
Government Pleader



JUDGMENT

(Judgment of the Court was delivered by
M. DURAISWAMY, J.)

Challenging the order passed in W.P(MD)No.21724 of 2018, dated 16.08.2021, the writ petitioner has filed the above Writ Appeal.

2.The appellant has filed the Writ Petition to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 16.05.2018 of the respondents and to quash the same and consequently to direct the respondents to appoint him in a suitable vacancy under compassionate category.

3.It is the case of the petitioner that his mother was working as Village Health Nurse and she died in harness on 16.05.2001 leaving behind the petitioner as his legal heir. According to the petitioner, he was two years at the time of death of his mother. The petitioner submitted his application seeking for compassionate appointment on attaining the age of 18 years on 06.06.2017. The second respondent by order dated 16.05.2018 rejected the petitioner's application stating that he has submitted his application beyond three years from the date of death of his mother on 16.05.2001. Challenging this order, the petitioner filed the Writ Petition and the learned Single Judge by order dated 16.08.2021 dismissed the Writ Petition finding that the petitioner has submitted his application after nearly 17 years from the date of death of his mother. While dismissing the Writ Petition, the learned Single Judge took into consideration the ratio laid down in the following Judgments:-

(i) In **Umesh Kumar Nagpal v. State of Haryana** reported in **1994 (4) SCC 138**, the Honourable Supreme held as follows:-

"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."

(ii) In **Government of India and another v. P.Venkatesh** reported in **(2019) 15 SCC 613**, the Honourable Supreme Court has held as follows:

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lapse of 17 years. The learned Single Judge, taking into consideration all these aspects, rightly dismissed the Writ Petition. We do not find any ground to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeal is devoid of merits and the same is dismissed. No costs.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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

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+1 CC to M/s.U.KASIPANDIAN, Advocate (SR-33070[F] dated 28/10/2021)

+1 CC to M/s.SPL.GP (SR-33203[F] dated 29/10/2021)

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28.10.2021**

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