



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.7810 of 2018

and

WMP.No.7385 of 2018

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P.V.Kishore

... Petitioner

Vs.

The Superintendent of Police,
Kanyakumari District,
Nagercoil.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling upon the records pertaining to the impugned order in Na.Ka.No.4/38255/2016 dated 23.10.2016 on the file of the respondent and quash the same as it is illegal and injustice and consequently directing the respondent to give compassionate appointment to the petitioner.

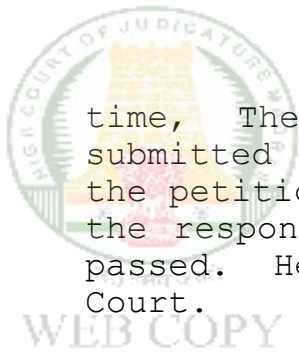
For Petitioner : Mr. Vashik Ali
for Mr.R.Murugan

For Respondent : Mr.S.Shanmugavel
Standing Counsel for State

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 23.10.2016, passed by the respondent and to direct the 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 in Police Department and he died on 06.05.2000 in a Motor Accident while he was in service, leaving behind the petitioner, his mother and his sister as legal heirs. The petitioner was aged about 3 years and her sister was aged about 8 years at the time of death of their father. Thereafter, the petitioner's mother submitted an application for her sister to the respondent seeking appointment on compassionate grounds. The same was rejected by the respondent. Once again her mother submitted a representation on 15.09.2016 seeking compassionate appointment for her daughter. However, the respondent rejected the application on 23.10.2016 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, Thereafter on attaining majority, the writ petitioner submitted an application in the month of June 2017. Thereafter, the petitioner made a fresh application in the month of June 2017 to the respondent for compassionate appointment. No orders have been passed. Hence, the petitioner has filed the Writ petition before this Court.

3. The learned Government Counsel appearing for the respondent submitted that it is mandate that while applying for compassionate appointment, the candidate must be a major and possess 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 17 years and hence, the 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, 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.

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.



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)

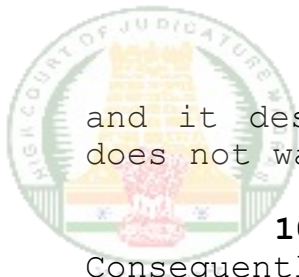
"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get 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 father died on 06.05.2000 and the petitioner, after attaining majority submitted application for compassionate appointment only in the year 2017, nearly after lapse of 17 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. Consequently, connected Miscellaneous Petition is closed. No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Superintendent of Police,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.GP (SR-25479[F] dated 06/08/2021)

+1 CC to M/s.N.SIVAKUMAR, Advocate (SR-25579[F] dated 06/08/2021)

W.P.(MD).No.7810 of 2018

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WMP.No.7385 of 2018

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RD(25.08.2021) 4P 4C