



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1986 of 2021

V.Subbaiah ... Appellant / Petitioner
Vs.

1.The Secretary to Government,
Family Welfare Department,
Secretariat,
Chennai - 9.

2.The Director,
Family Welfare Department,
Secretariat,
Chennai - 9.

3.The Deputy Director,
Medicine Rural and Family Welfare Department,
Thoothukudi. ... 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.24630 of 2018 on the file of this Court.

Prayer in WP(MD) . 24630/ 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 relating to the order passed by the 2nd Respondent vide Na.Ka.O.M.No.48224 Pa.Tho.4/2017/Iru.3, dated 22.1.2018, and consequential order of 3rd respondent in Na.Ka.No.4344/A2/17 dated 3.2.2018 and quash the same as illegal and unconstitutional, consequently direct the Respondents to appoint the petitioner under compassionate ground in any one of suitable post according to his educational qualification under third respondent by accepting the petitioner's representation dated 27/04/2017

For Appellant : Mr.Srinivasa Raghavan
for Mr.D.Anbarasu

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.24630 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 passed by the second respondent, dated 22.01.2018 and the consequential order of the third respondent, dated 03.02.2018 and to quash the same and consequently, directing the respondents to appoint the petitioner under compassionate ground in anyone of the suitable post according to his educational qualification under the third respondent by accepting the petitioner's representation dated 27.04.2017.

3.It is the case of the appellant that his father was working as driver in the third respondent Department and he died in harness on 20.12.2002 leaving behind the petitioner and his mother as his legal heirs. Thereafter, the appellant's mother submitted a representation to the respondents seeking appointment on compassionate ground. Since the appellant was a minor at that time, the application was rejected by the respondents. Subsequently, on 27.04.2017, the appellant submitted another application seeking for appointment on compassionate ground. However, the respondents rejected the application stating that the application has been made after a lapse of three years.

4.When the appellant's father had died on 20.12.2002, the application seeking for appointment on compassionate ground should have been submitted within three years from the date of death of the employee.

5.The learned Single Judge, taking into consideration the case of both parties, dismissed the Writ Petition finding that the application has been made after a lapse of three years.

6.In the Government Order in G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the time limit to prefer the application for compassionate appointment should be made within three years from the date of the death of the employee.

7.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:-

<https://hcservices.ecourts.gov.in/hcservices/>



"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:-

"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."

(iii) In the unreported Judgment of the Honourable Full Bench of this Court dated 11.03.2020 made in W.P.(MD)No.7016 of 2011, the Division Bench of this Court has held that the applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

8. In view of the settled legal position, the learned Single Judge rightly dismissed the Writ Petition. We do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is dismissed. No costs.

Sd/-

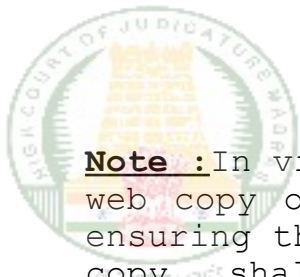
Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

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To

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Secretariat,
Chennai - 9.

3.The Deputy Director,
Medicine Rural and Family Welfare Department,
Thoothukudi.

+1 CC to M/s.SPL.GP (SR-33348[F] dated 01/11/2021)

+1 CC to M/s.D.ANBARASU, Advocate (SR-33404[F] dated 01/11/2021)

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RD/PM (18.11.2021) 4P 6C