



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.8911 of 2018

and

W.MP. (MD) .No.8310 of 2018

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Sri Rajalakshmi

... Petitioner

Vs.

1. The Director General of Police,
Government of Tamilnadu,
Chennai- 6.

2. The Commissioner of Police,
Madurai City,
Madurai.

3. The Deputy Commissioner of Police,
Head Quarters, (Crime),
Madurai City.

... Respondents

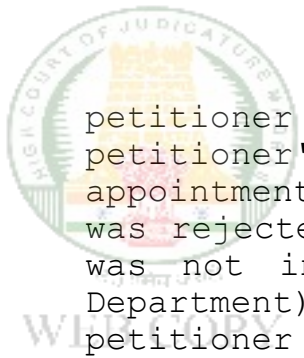
PRAYER: Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the entire records in connection with the impugned orders in Na.Ka.No.A4/62243/2009 dated 30.03.2013 on the file of the third respondent and the consequential order in Na.Ka.No.A4/57527/2017 dated 28.11.2017 on the file of the second respondent and quash the same as illegal and consequently direct the respondents herein to provide suitable employment to the petitioner on compassionate grounds.

For Petitioner : Mr.R. Shankar Ganesh for
M/s D. Anbarasu,
For Respondents : Mr.A.K.Manikkam
Standing Counsel,

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 30.03.2013, 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 writ petitioner is that the petitioner's father was working as Constable in the third respondent department and he died in harness on 30.09.2009, while he was in service. Her father died leaving behind her, her mother and her sister. The Writ Petitioner is daughter of the deceased employee. The



petitioner was minor at the time of death of her father. Thereafter petitioner's mother submitted an application seeking compassionate appointment on 01.03.2010 for petitioner. The aforesaid application was rejected by the third respondent on the ground that the request was not in accordance with G.O.Ms.No.120 (Labour and Employment Department) dated 26.06.1995. After attaining majority, the petitioner has submitted an application on 11.09.2017 to the first respondent requesting to provide her employment on compassionate ground. However, the second respondent rejected the claim of the petitioner on 28.11.2017 on the ground that the said application is beyond the three years period as per the government orders.

3. The learned Standing counsel appearing for the respondents would submit that the petitioner has submitted the application for compassionate ground 11.09.2017, nearly after 8 years. The application should be submitted within 3 years from the date of death of the employee. Based on the aforesaid proceedings, the second respondent has rightly rejected the claim of the petitioner. Further the learned Standing Counsel for the respondents would submit that the said period for submitting the application has been elaborately discussed by this Court as well as by the Hon'ble Supreme Court.

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.

9. ...

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. In the case on hand, admittedly, the petitioner's father died on 30.09.2009 and the petitioner submitted application for compassionate appointment only on 11.09.2017, nearly after 8 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.



9. In fine, the writ petition fails and it is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1. The Director General of Police,
Government of Tamilnadu,
Chennai- 6.
2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Deputy Commissioner of Police,
Head Quarters, (Crime),
Madurai City.

+1 CC to M/s.GP (SR-25504[F] dated 06/08/2021)

+1 CC to M/s.SANJAI GANDHI, Advocate (SR-25434[F] dated 05/08/2021)

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W.MP. (MD) .No.8310 of 2018

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RD(26.08.2021) 4P 6C