



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.19974 of 2019

Sathya Narayani

... Petitioner

Vs.

1. The Chief Educational Officer,
Pudukottai,
Pudukottai District.

2. The Headmistress,
Rani Government Girls Higher Secondary School,
Pudukottai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of Writ a of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in his proceedings in O.Mu.No.582/A1/2019 dated 28.01.2019 and quash the same as illegal and consequently direct the 1st respondent to consider the petitioner's case for compassionate appointment by considering her representation dated 21.01.2019.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.A.K.Manickam,
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 28.01.2019, passed by the first respondent and to direct the first respondent to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that her mother was working as P.G Assistant (Tamil) in the second respondent Scholl and she died on 16.07.2009 while she was in service, leaving behind the petitioner as legal heirs. Thereafter on attaining majority, the petitioner submitted a representation, dated 21.01.2019, to the respondents seeking compassionate appointment. However, the first respondent rejected the petitioner's request, vide order dated 28.01.2019, 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 her mother and after attaining majority, she submitted application after a lapse of nearly ten years and hence, the first 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***), 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)



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"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."

Judgment 7. The Honourable Full Bench in Paragraph No.13 of the **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 16.07.2009 and the petitioner, after attaining majority, submitted application for compassionate appointment only on 21.01.2019, nearly after a lapse of ten 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.



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10. In fine, the writ petition fails and it is dismissed.
No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Chief Educational Officer,
Pudukottai,
Pudukottai District.

+1 CC to M/s.GP (SR-26909[F] dated 23/08/2021)

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