



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.10171 of 2018

W.M.P. (MD) Nos.9226 & 9227 of 2018

WEB COPY

M.Kannan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Municipal Administration
and Water Supply,
Secretariat, Chennai - 600 009.

2.The Commissioner,
Dindigul Corporation,
Dindigul.

... Respondents

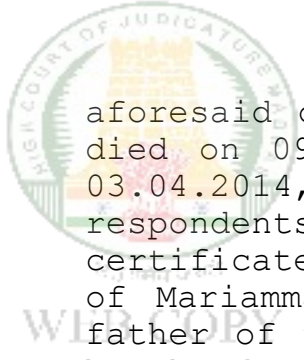
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No.1157/2018/H2, dated 28.02.2018 on the file of the respondent No.2 and quash the same as illegal and consequently direct the respondent No.1 to appoint the petitioner as sweeper on compassionate ground or any other suitable post on the basis of his educational qualification with the respondent No.2 corporation with consequential benefits within the time period stipulated by this Court.

For Petitioner	:	Mr. T.Thirumurugan
For Respondents	:	Mr. A.K.Manickam, Standing Counsel for State for R1 Mr.J.Lawrence, Standing Counsel for R2

O R D E R

This Writ Petition has been filed challenging the order dated 28.02.2018, passed by the second respondent and for a consequential direction to the second respondent to appoint the petitioner as sweeper on compassionate ground or any other suitable post on the basis of his educational qualification in the respondent No.2 corporation with consequential benefits.

2. The writ petitioner's mother was working in the second respondent Corporation as Sweeper and she died on 09.02.2013, while she was in service. Before her death, she filed a suit in O.S.No.814 of 2012, before the Additional District Munsif Court, Dindigul to declare that the petitioner is an adopted son of the



aforesaid deceased employee. During the pendency of the suit, she died on 09.02.2013. The petitioner has given a representation on 03.04.2014, seeking appointment on compassionate ground. The respondents called upon the petitioner to produce legal heir certificate and other documents. In the aforesaid suit, the death of Mariammal was recorded and her brother, who is the biological father of the petitioner, was prosecuted the case, The suit filed by the deceased Mariammal, was decreed on 23.08.2016, declaring that the petitioner is adopted son of the deceased Mariammal. After obtaining the decree, again the petitioner made a representation to the respondents on 07.04.2017, seeking to provide service benefits as well as compassionate appointment. However, by the impugned order dated 28.02.2018, the respondents have rejected the same on the ground that the application for compassionate appointment was not given within three years from the date of death of petitioner's mother. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the issue for submitting the application beyond three years has been elaborately considered by the Division Bench of this court in W.A.(MD)No.1407 of 2016, dated 14.07.2016. The petitioner relying on the said judgment, seeks to quash the impugned proceedings and to consider his representation afresh and prayed for appropriate orders.

4. The learned counsel appearing for the respondents submitted that the petitioner has not submitted his application on 03.04.2013. There is no proof available on the records as well as the typed set of papers. Subsequently, the petitioner made a representation on 07.04.2017. The said representation was duly considered and rejected on the ground that the aforesaid application was submitted by the petitioner beyond three years period. Therefore, in the light of the Government Order, the impugned order is perfectly in order and it does not call for any interference.

5. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel for the State appearing for the respondents and perused the materials available on record.

6. On a perusal of the records, it is seen that a suit in O.S.No.814 of 2012 was filed by the deceased Mariammal and after the death of the said Mariammal, the petitioner and her biological father have prosecuted the same and obtained a decree before the civil Court. The Division Bench of this Court in W.A.(MD)No.1407 of 2016, dated 14.07.2016, has elaborately considered the issue for submitting the application seeking for compassionate ground, beyond the three years period.

7. Considering the aforesaid facts and circumstances as well as <https://hdservices.courts.gov.in/hdservices/> of the petitioner, this Court is of the view that one



more opportunity shall be granted to the petitioner to submit a detailed representation to the second respondent Municipality, including the evidence submitting his application on 03.04.2013, seeking for compassionate appointment, within a period of two weeks from the date of receipt of a copy of this order. If any such application is submitted by the petitioner, the second respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

8. With the above directions, this Writ Petition is allowed and consequently, the impugned order is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

1.The Secretary,
State of Tamil Nadu,
Department of Municipal Administration
and Water Supply,
Secretariat, Chennai - 600 009.

2.The Commissioner,
Dindigul Corporation,
Dindigul.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-25236[F] dated 04/08/2021)
+1 CC to M/s.T.THIRUMURUGAN, Advocate(SR-25244[F] dated 04/08/2021)
+1 CC to M/s.GP (SR-25511[F] dated 06/08/2021)

W.P. (MD) .No.10171 of 2018
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RD(18.08.2021) 3P 6C