



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.14009 of 2018

and

W.M.P. (MD)No.12706 of 2018

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Valarmathi

... Petitioner

Vs.

The Assistant Director (Survey),
O/o. The District Survey,
Madurai District,
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings of the respondent bearing Na.Ka.No.A/5/10539/2013 dated 14.02.2018 and quash the same and consequently direct the respondent to consider the case of the petitioner for appointment on compassionate ground in any one of the vacancies in the respondent department at the earliest.

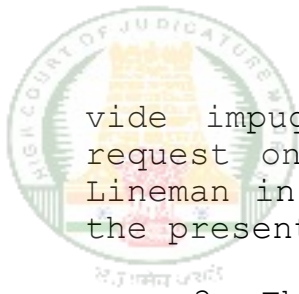
For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.A.K.Manickam,
Standing Counsel for State

ORDER

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 14.02.2018 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 her mother was employed as Assistant in the respondent department and she died on 17.05.2003, while she was in service. Thereafter, on 03.09.2003, the petitioner submitted an application to the respondent seeking appointment on compassionate grounds. The petitioner submitted all the original documents to the respondent. The respondent, by the order dated 22.07.2013, rejected the request of the petitioner. As against the same, the petitioner has filed a Writ Petition in W.P. (MD)No.15578 of 2013 before this court. This Court, by order dated 20.03.2017, disposed the same by directing the respondent to consider the case of the petitioner as per G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993. However, the respondent,



vide impugned order dated 14.02.2018, rejected the petitioner's request on the ground that the petitioner's father is working as Lineman in the Tamil Nadu Electricity Board. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the writ petitioner is living separately along with her mother and therefore, she is depending the income of the deceased mother. The respondent, without considering the order passed by this Court in the earlier writ petition in W.P.(MD)No.15578 of 2013, has passed the impugned order, which is totally contrary to the facts. The petitioner has also submitted the released deed executed by her father on 01.11.2014, which was registered on 24.05.2017. The respondent, without considering the same, passed the impugned order, by rejecting the claim of the petitioner on the ground that her father is working as Lineman in the Tamil Nadu Electricity Board. Hence, the impugned order passed by the respondent is liable to be dismissed.

4. Counter affidavit has been filed by the respondent. Based on the counter affidavit, the learned Standing Counsel for Government appearing for the respondent submitted that the petitioner's father is working as Lineman in the Tamil Nadu Electricity Board during the relevant period and subsequently, the petitioner's father was retired from service. Apart from that, the petitioner got married and her husband is working in the school. Further according to the learned counsel for the respondent, the release deed executed by the petitioner's father dated 01.11.2014 is only an after thought. Therefore, the respondent has rightly rejected the claim of the petitioner.

5. I have anxiously considered the rival submissions and perused the materials on record.

6. Admittedly, the petitioner's mother died on 17.05.2003 and the petitioner submitted an application on 03.09.2003, seeking for compassionate appointment. On verification, it was found that the petitioner's father was working as Lineman in the Tamil Nadu Electricity Board and thereafter, he was retired from service. Though it is the contention of the petitioner that she is living separately along with her mother, the petitioner has not filed any material to show that she is living separately along with her mother and she is not depending the income of her father. Therefore, this Court has not accepted the contention of the petitioner. Further, the petitioner got married and his husband is also working in the School. Further, as per the Rules, the maximum age for compassionate appointment is fixed as 35 and the said age is also now crossed by the petitioner. On considering the said fact, there is no justification for accepting the contention of the petitioner. 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. In the light of the said judgment, after the laps of 18 years, the request for seeking compassionate appointment cannot be granted. Accordingly, the impugned order does not warrant any interference of this Court.

8. In fine, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

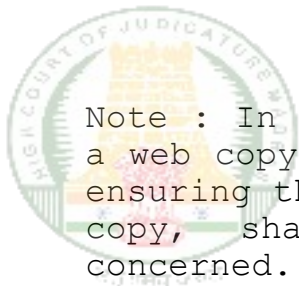
Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)



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.

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To

The Assistant Director (Survey),
O/o. The District Survey,
Madurai District,
Madurai.

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-26257[F] dated 13/08/2021)
+1 CC to M/s.GP (SR-26226[F] dated 13/08/2021)

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RD(23.08.2021) 4P 3C