



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.21433 of 2019

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R. Arunkumar

... Petitioner

-vs-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
 2. Chief Educational Officer,
Pudukkottai District,
Pudukkottai.
 3. The District Elementary Education Officer,
Pudukkottai District,
Pudukkottai.
 4. The District Educational Officer,
Aranthangi,
Pudukkottai District.
 5. The Assistant Elementary Education Officer,
Karambakudi,
Pudukkottai District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of certiorarified mandamus to call for the records relating to the order passed by the second respondent passed in the proceedings Na.Ka.No.3995/A1/2019 dated 31.07.2019 and quash the same and subsequently direct the respondents to provide any suitable post to the petitioner on compassionate ground.

For Petitioner : Mr. K.C. Maniyarasu
For Respondents : Mr.S. Shanmugavel
Government Counsel

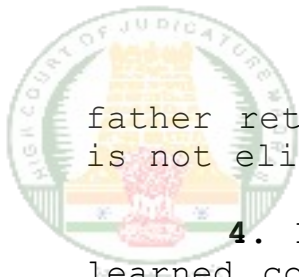


O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to call for the records relating to the order passed by the second respondent passed in the proceedings Na.Ka.No.3995/A1/2019 dated 31.07.2019 and quash the same and subsequently direct the respondents to provide any suitable post to the petitioner on compassionate ground.

2. The case of the petitioner is that his father was working as Middle School Headmaster of Krishnampatti Village Panchayat School at Karambakudi Taluk and he was retired from service on 24.10.2011 based on the report submitted by the Medical Board that he was suffering from Pseudobulbar Palsay and Dysarthria and declared the petitioner's father as unfit to continue his work as teacher. Thereafter, the petitioner's father submitted representations to the respondents seeking appointment on compassionate grounds. Since the petitioner was minor at that time, all the applications were rejected by the respondents. On 21.11.2016, he submitted another representation, to the third respondent to keep the petitioner's name in priority list until he attains majority. However, the fourth respondent rejected the petitioner's request, vide orders dated 29.05.2017 on the ground that the petitioner has attained majority. Aggrieved by the said rejection order, the petitioner preferred an appeal to the second respondent dated 23.06.2017 to enlist the petitioner's name in priority list until he attains the age of majority, the aforesaid appeal was also rejected by order dated 31.07.2017. On attaining majority, the petitioner submitted another application for compassionate appointment on 10.09.2019 and the same is still pending. Hence, the petition filed the present writ petition.

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 retirement of his father and after attaining majority and completed his education, he submitted application after a lapse of nearly 8 years and hence, the respondents cannot consider the representation of the petitioner on compassionate grounds. It is further submitted that compassionate appointment is applicable only in the case of sudden death of an employee during the course of his service period for the purpose of availing financial assistants. But, in the instant case, the petitioner's



father retired only on voluntarily retirement scheme and hence he is not eligible for appointment on compassionate grounds.

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. 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 father retired on 24.10.2011 and the petitioner, after attaining majority and completing his Bachelors Degree, submitted application for compassionate appointment only on 10.09.2019 nearly after a lapse of 8 years. Further, the compassionate appointment is applicable only in the case of sudden death of an employee during the course of his service period for the purpose of availing financial assistants. But, in the instant case, the petitioner's father retired only on voluntarily retirement scheme and hence he is not eligible for appointment on compassionate grounds. 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 (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

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:

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State of Tamil Nadu,
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+1 CC to M/s.SPL GP (SR-26511[F] dated 17/08/2021)

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