



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.14142 of 2018

C. Dhanasekaran

... Petitioner

Vs.

1. District Elementary Education Officer,
District Primary Education Office,
Pudukottai - 622 302.

2. Director of Elementary Education,
Directorate of School Education,
College Road,
Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order in O.Mu.No1645/A1/2018 dated 28.05.2018 of the 1st respondent and to quash the same as illegal and consequently direct the respondents to give employment under compassionate grounds.

For Petitioner : Mr. S.A. John Vincent

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

O R D E R

The writ petitioner's mother was working as Science Teacher at Theethanipatti Middle School, Karampakudi Union and she died on 20.10.2011, while she was in service. Thereafter, the petitioner submitted a representation to the respondents on 19.05.2018 seeking compassionate appointment in the respondent department. According to the petitioner, at the time of the death of his mother, he was aged about 17 years and due to the family circumstances, he could not submit his explanation to the respondents within three years period and he submitted his representation only on 19.05.2018. Therefore, he seeks to consider his request on sympathetic ground for compassionate appointment in the respondent department.

2. The respondent has filed a counter affidavit. In the said counter, it is stated that the petitioner has given the representation for compassionate appointment only on 19.05.2018, nearly after 7 years from the date of death of his mother. It is further stated that 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. Therefore, the impugned order has been passed rejecting the claim of the petitioner



on this ground. Since the petitioner has not applied within the three years period, his claim is liable to be rejected.

3. I have anxiously considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

4. 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.

5. 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."



6. 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."

7. 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.

8. In the case on hand, admittedly, the petitioner's mother died on 20.10.2011 and the writ petitioner has submitted his application for compassionate appointment only on 19.05.2018, nearly after seven 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 at the hands of this Court.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

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Pudukottai - 622 302.

2. Director of Elementary Education,
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+1 CC to M/s.GP (SR-25510[F] dated 06/08/2021)

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