



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No.14796 of 2018

M. Muthuselvi

... Petitioner

Vs.

1. The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Theni District,
Theni.
3. The Assistant Director of Survey & Land Records,
Collector's Officer,
Theni.

... 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 of the third respondent, the Assistant Director of Survey & Land Records, Collector's Office, Theni relating to his Na.Ka.No.91.1/280/18 dated 20.03.2018 and quash the same and consequently direct the first and second respondents, to appoint the petitioner on compassionate grounds considering the qualification obtained by the petitioner on the date of attaining majority i.e., on 15.04.2014 within a specified time.

For Petitioner : Mr. S. Visvalingam
For Respondents : Mr. S. Shanmugavel,
Standing Counsel

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 20.03.2018, passed by the second respondent and to direct the second respondent to consider the case of the petitioner for appointment on compassionate grounds.

2. According to the petitioner, his father was working as Office Assistant in The Assistant Director of Survey and Land Records Department and he died on 16.08.2002, while he was in service, after serving for more than 10 years. Thereafter, on attaining majority and completing her education, she has submitted a



representation 28.07.2015 and the same was rejected by the third respondent 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 father and she was a minor at the relevant time. Thereafter, the petitioner again submitted two representations dated 14.02.2018 and 05.03.2018 to the third respondent seeking appointment on compassionate grounds. However, the same were rejected by the third respondent, on 20.03.2018 on the same grounds. According to the petitioner, the statutory period of limitation i.e., three years in respect of minors has to be calculated from the date of their attaining majority as per the law laid by the Hon'ble Supreme Court reported in SLP (c) 8305 of 2010 dated 06.07.2010 and followed in W.P.(MD). No.11660 of 2015 dated 28.09.2016 which was also confirmed by the Division Bench in W.A.(MD).No.411 of 2017 dated 19.04.2017. Further it is also covered by the G.O.(Perm)No.155 Labour and Employment Department dated 10.12.2014. Hence, the present writ petition has been filed before this court.

2. The learned Standing Counsel appearing for the respondents drew the attention of the Court that the same issue was also considered in detail by the Division Bench of this Court in W.A.No.1749 of 2019 (**Sudhanthira Devi vs. The State of Tamil Nadu and others**) 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. But, the petitioner herein was minor at the time of death of his father and after attaining majority and completing her education, she has submitted application after a lapse of nearly twelve years and hence, the third respondent has rightly rejected the petitioner's application for compassionate appointment.

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.

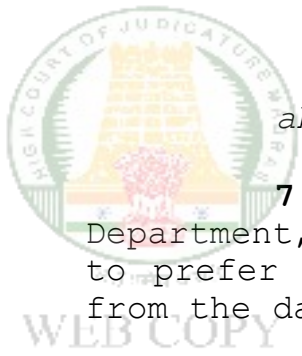
9. ...

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."

Judgment 6. 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."

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 father died on 16.08.2002 and the petitioner, after attaining majority and completing her education, submitted the application for compassionate appointment only on 28.07.2015, nearly after twelve 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.

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

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Theni District, Theni.
3. The Assistant Director of Survey & Land Records,
Collector's Officer, Theni.

+1 CC to M/s.GP (SR-25389[F] dated 05/08/2021)

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RD(19.08.2021) 4P 5C