



BEFORE THE MDURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.4292 of 2017

Esakkidurai

.... Petitioner

Vs.

1.The Director,
Director of Employment and Training,
Gunindy, Chennai-32.

2.The District Employment Officer,
Employment Exchange,
Tirunelveli-9.

... Respondents

Prayer : Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent, dated 05.01.2017 in O.V.1/25123/2015 quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate grounds due to the death of his father M.Pichumani.

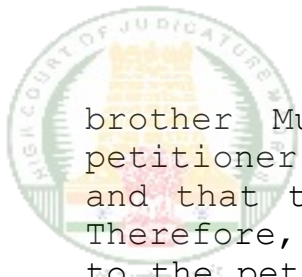
For Petitioner : Mr.V.Kathikeyan

For Respondents : Mr.A.Karthik,
Government Advocate

ORDER

This writ petition has been filed to quash the order passed by the first respondent, dated 05.01.2017 in O.V.1/25123/2015 and consequently, to direct the respondents to provide employment to the petitioner on compassionate grounds due to the death of his father M.Pichumani.

2.The learned counsel appearing for the petitioner would submit that the petitioner's father Pichumani was employed as Peon in the office of the Khadi Village Board, Tirunelveli and thereafter, he was again re-appointed in the office of the second respondent as Office Assistant on 05.04.2010. However, within a period of four months, the petitioner's father died in harness on 03.08.2010, leaving behind the petitioner and his mother, namely, Mariammal and two elder sisters and the petitioner's younger



brother Murugan as Legal heirs. At the time of death, the petitioner is aged about 15 years and his elder sister was married and that the petitioner's mother was not able to run the family. Therefore, she made an application for compassionate appointment to the petitioner on 26.08.2011. The said application was rejected in the year 2017, on the ground that at the time of application, the petitioner is aged only 15 years, though the application made by the petitioner's mother is a defective one. However, at the time of passing the impugned order, the petitioner attained majority and without considering the subsequent development, the respondents mechanically rejected the petitioner's application as unsustainable one. Hence, this Court may set aside the impugned order and remand the matter back to the authorities for fresh consideration.

3.The learned Government Advocate appearing for the respondents would submit that at the time of applying for compassionate appointment, the application itself is a defective application. Though there is no proper explanation for delay in rejecting the application, however, the fact remains that the application was rejected on the ground that the petitioner did not attain majority at the relevant point of time.

4.Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents and perused the materials available on record.

5.The petitioner's father died in the year 2010 and immediately, thereafter on 26.08.2011, the petitioner's mother made an application to the respondents. It is also an admitted fact that at the time of application, the petitioner is aged 15 years old. However, the said application was rejected in the year 2017 after a lapse of six years and further, the first respondent had mechanically rejected the application. Admittedly, the petitioner application is a defective one as the minors are not entitled for compassionate appointment. However, the respondents also did not aver anything for the delay in rejecting the application. The application itself is a defective one and the said application was rejected after a lapse of six years. The scheme provides for making application for compassionate appointment within three years, and they have to make application within three years. The petitioner's father died in the year 2010. However, the said application was rejected in the year 2017. Even otherwise, the petitioner became eligible to consider the application in the year 2013 and without discussing the indigent circumstances of the petitioner's family, they mechanically rejected his application on the ground that the petitioner has not attained majority. Hence, I am inclined to interfere with the order impugned in the writ petition. Accordingly, the impugned order is set aside and the matter is



remanded back to the respondents for fresh consideration in accordance with scheme within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. With the above terms, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sjj

To

1. The Director,
Director of Employment and Training,
Gunindy, Chennai-32.

2. The District Employment Officer,
Employment Exchange,
Tirunelveli-9.

+1 CC to SGP (SR-1405[F] dated 20/01/2021)

+1 CC to Mr.V.PERUMAL, Advocate (SR-1427[F] dated 20/01/2021)

W.P. (MD) No.4292 of 2017

19.01.2021

KM (11.02.2021) 3P 5C