



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.5092 of 2017

G.Lekshmanan

.... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Director of Town Panchayat,
Kuralagam, Chennai-600 108.

3.The Assistant Director of Town Panchayat,
Nagercoil, Kanyakumari District.

4.The Executive Officer,
Myladi Town Panchayat,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Mandamus, directing the Assistant Director of Town Panchayat, the third respondent, to consider the petitioner's application, dated 20.02.2017 insofar as it relates to appointment for the post of sweeper, on compassionate grounds, on the basis of the acceptance dated made by the first respondent, within a time frame as may be fixed by this Court.

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.A.Karthik,
Government Advocate (for R1 to R3)

No Appearance (for R4)

ORDER

The writ petition has been filed seeking for a direction to the third respondent, to consider the petitioner's application, dated 20.02.2017, to appointment for the post of sweeper, on compassionate grounds, on the basis of the acceptance dated made by the first respondent, within a time frame as may be fixed by



2.It is the case of the petitioner that the petitioner's father died in harness on 27.10.2005, while he was in service as Sweeper in Myladi Town Panchayat, leaving behind the petitioner's mother and his brother and sister and further averred that the petitioner repeatedly sent representation to the first respondent on 27.10.2014. However, the said representation was not considered. Again, he sent an application on 27.02.2017. The respondents stated that the application under process. Since the said application was not considered till date, the petitioner filed the present writ petition with the above said prayer.

3.The learned counsel for the petitioner would submit that this Court may issue a direction to consider the petitioner's application, dated 20.02.2017, within the time frame fixed by this Court.

4.The learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioner's father died on 27.10.2005 and therefore, they ought to have filed an application on or before 27.10.2008. But the petitioner filed his representation only on 25.10.2014. Therefore, his application was liable to be rejected on the ground that the application was not presented within a period of three years. It is also to be noted that he has not assigned any reason for the delay in submitting the application and hence, he prayed for dismissal of this petition.

5.Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 to 3 and perused the materials available on record.

6.The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.



7.Considering the facts and circumstances of the case, the petitioner's father died in the year 2005 and on perusal of the representation made by the petitioner, dated 20.02.2017, on an earlier occasion, the petitioner's application was rejected on 25.10.2014. The petitioner's claim that at the time he is not able to challenge the said order and pursued the remedy before the authority. After recovering from the mental illness, the petitioner again made an applications on 18.08.2014, 27.10.2014 and 20.02.2017, which is not deserved for and consideration on the ground that without challenging the earlier rejection order, making repeated representation one after another is not permissible. Hence, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Director of Town Panchayat,
Kuralagam, Chennai-600 108.

3.The Assistant Director of Town Panchayat,
Nagercoil, Kanyakumari District.

+1 CC to SGP (SR-1403[F] dated 20/01/2021)

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KM (08.02.2021) 3P 5C