



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) No.6806 of 2017

Bhuavaneeswari

...Petitioner

Vs

1.The Head of the Department,
Director of Public Health and Preventive Medicine,
DMS Campus, Teynampet,
Chennai.

2.The Officer Incharge,
National Malarian Eradication Programme,
Kumbakonam,
Thanjavur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Aa.The.Mu.No.867/16/A1 dated 27.09.2016 on the file of the second respondent herein and quash the same consequently directing the respondents to grant appointment on compassionate ground for the death of her father A.Kanniyan died on 09.09.1998 while he was working as a field worker in the office of the second respondent.

For Petitioner : Mr.V.Illanchezian

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

This Writ Petition has been filed to quash the impugned proceedings in Aa.The.Mu.No.867/16/A1, dated 27.09.2016, on the file of the second respondent herein and consequently, to direct the respondents to grant appointment on compassionate ground for the death of petitioner's father, namely, A.Kanniyan, died on 09.09.1998, while he was working as a field worker in the office of the second respondent.

2.The case of the petitioner is that his father namely, Kanniyan, who was working as Field Worker in the second respondent Office at Pudukkottai, died on 09.09.1998, while he was in service leaving behind the petitioner, her mother and grandparents. At



the time of death of the deceased employee, the petitioner was aged about 5 years and the petitioner's mother was aged about 33 years. Immediately thereafter, the petitioner's mother made an application to the second respondent for compassionate appointment. After receipt of the said representation, the second respondent by proceedings, dated 02.06.1999, directed the petitioner's mother to produce the legal heirship certificate, death certificate, no objection from the other legal heirs, educational certificate and income certificate. Since the petitioner's mother is an illiterate person, she was not able to proceed the application further. After completing the school studies, the petitioner made an application for compassionate appointment on 21.09.2016 and the said application was rejected on 27.09.2016, on the ground that the petitioner has not made the application within three years. Challenging the same, the present writ petition has been filed.

3.The learned counsel for the petitioner would submit that though the petitioner's mother made an application within three years, immediately after the death of the petitioner's father, the said application was not processed. In continuation of the earlier application, the petitioner made an application on 21.09.2016. Hence, there is no delay on the part of the petitioner in seeking compassionate appointment. Hence, he prayed for allowing the writ petition.

4.Per contra, the learned Government Advocate for the respondents would submit that as per the scheme, the petitioner has to made an application within three years. Though the petitioner's mother made an application in the year 1999, the said application was a defective application and thereafter, on 02.06.2019, the authority instructed the petitioner's mother to produce necessary certificates in order to proceed the application for compassionate appointment further. The request was made by the official respondent in the year 1999, however the petitioner's mother obtained all the certificates only in the year 2016, after a lapse of 17 years and thereafter, she made an application which is beyond the time limit prescribed in the scheme.

5.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after three years. In this regard, useful reference can be had to the decision of the Hon'ble Division Bench of this Court, in W.A.No.3899 of 2019, [P. Poongodi vs The Chairman] on which



categorically held that the claim for appointment on compassionate basis must be made without any delay. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family, which had arisen due to the sudden 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. In the light of the decision of the Hon'ble Division Bench in Poongodi's case (supra), the present petition is wholly unsustainable and deserves to be dismissed. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp

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:

1.The Head of the Department,
Director of Public Health and Preventive Medicine,
DMS Campus,
Teynampet,
Chennai.



2.The Officer Incharge,
National Malarian Eradication Programme,
Kumbakonam,
Thanjavur District.

WEB COPY

+1 CC to M/s.GP (SR-1358[F] dated 20/01/2021)

Order made in
W.P. (MD) No.6806 of 2017
19.0s1.2021

na (CO)

TR(01.03.2021) 4P 4C