



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.22754 of 2018

R.Arul Pandian

... Petitioner

-vs-

1.The State of Tamil Nadu
Rep.by its Secretary
Municipal Administration and
Water Supply Department
Secretariat, Chennai-600 009

2.The Commissioner of
Municipal Administration
Chepauk, Chennai-600 005

3.The Regional Director
Regional Directorate of
Municipal Administration
294, Melakkal Main Road
Kochadai, Madurai-625 016

4.The Commissioner
Municipal Office
Allinagaram - Theni
Pin : 625 531

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Ref.Na.Ka.No.740/2016/H2, dated 26.03.2018, on the file of the first respondent and quash the same as illegal and consequently to direct the first respondent to consider the petitioner for appointment on compassionate ground within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Shanmugavel
Government Counsel for R1 to R3
Mr.K.Hema Karthikeyan for R4

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 26.03.2018, passed by the first respondent and to direct the first respondent to consider the case of the petitioner for appointment on compassionate



grounds.

2. The case of the petitioner is that his father was working as Sanitary Worker in the third respondent Office and he died on 08.01.2011 while he was in service, leaving behind the petitioner, his mother and sister as legal heirs. Thereafter, on 24.06.2011, the petitioner submitted an application to the third respondent seeking appointment on compassionate grounds. Since the petitioner was minor aged about 14 years and studying X Standard at that time, on 22.07.2015, he submitted another representation, after attaining majority and completing his B.Com. Degree. The third respondent forwarded the petitioner's representation, dated 22.07.2015, along with the earlier representation, dated 24.06.2011 to the first respondent, through the second respondent, vide proceedings dated 09.11.2015. However, the first respondent rejected the petitioner's request, vide order dated 26.03.2018, 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 the petitioner was a minor at the relevant time. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that at the time of death of the petitioner's father, the petitioner was a minor, however he submitted application on 24.06.2011 seeking compassionate appointment and after attaining majority and completing his Degree course, he submitted another representation on 22.07.2015. However, the first respondent, without taking into account the said fact, has mechanically rejected the petitioner's request, which is in total violation of the settled legal position. Therefore, he prayed that the respondents may be directed to consider the petitioner's case for compassionate appointment.

4. The learned Government Counsel appearing for the respondents 1 to 3 submitted that it is mandate that while applying for compassionate appointment, the candidate must be a major and possessed requisite education qualification. Furthermore, 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. But, the petitioner herein was minor at the time of death of his father and after attaining majority and completed his B.Com. Degree, he submitted application after a lapse of nearly four years and hence, the first respondent has rightly rejected the petitioner's application for compassionate appointment.

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



record.

6. 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.

7. 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."

8. 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."

9. 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.

10. In the case on hand, admittedly, the petitioner's father died on 08.01.2011 and the petitioner, after attaining majority and completing his Bachelors Degree, submitted application for compassionate appointment only on 22.07.2015, nearly after four 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.

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

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

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

<https://hcservices.ecourts.gov.in/hcservices/>



correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

1.The Secretary,
Municipal Administration and
Water Supply Department,
State of Tamil Nadu,
Secretariat, Chennai-600 009.

2.The Commissioner of
Municipal Administration,
Chepauk, Chennai-600 005.

3.The Regional Director ,
Regional Directorate of
Municipal Administration,
294, Melakkal Main Road,
Kochadai, Madurai-625 016.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-25805[F] dated
10/08/2021)

+1 CC to M/s.GP (SR-25886[F] dated 11/08/2021)

W.P. (MD) No.22754 of 2018

09.08.2021

RD(17.08.2021) 5P 6C