



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD)No.18314 of 2016

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Valliammal

... Petitioner

Vs.

1.The Secretary to Government,
Home Department,
Secretariat,
Chennai-09.

2.The Additional Director,
Department of Survey and Land Records,
Chennai-05.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Assistant Director,
District Survey and Land Records,
Ramanathapuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the 4th respondent made in his proceedings in Na.Ka.A1/1484/2016 dated 28.03.2016 and to quash the same and consequently direct the respondents to consider the petitioner's application dated 02.06.2014 for appointment to the petitioner's son, namely, Ranjithkumar under compassionate grounds in a proper prospect within a stipulated time.

For Petitioner : Mr.S.Krishnan

For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

ORDER

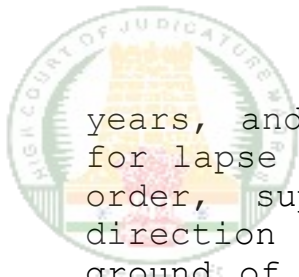
This writ petition is filed seeking a writ of Certiorarified Mandamus, to quash the order passed by the fourth respondent in Na.Ka.A1/1484/2016 dated 28.03.2016 and further direction to the respondents to consider the petitioner's son, namely, Ranjithkumar, for compassionate appointment by considering the petitioner's application dated 02.06.2014.



2. The case of the petitioner is that the petitioner's husband, namely, Muthuchamy was working as a Sub-Inspector, in Land Survey and Records Department under the fourth respondent and his service was regularised and while in service, he died on 21.05.2002 leaving behind the petitioner, petitioner's daughter and son. At the time of death, the petitioner's daughter was aged about 11 years and her son aged about 9 years. Therefore, the burden to raise family fell solely upon the petitioner and the family was living in penury with the meagre family pension and the petitioner's daughter had completed degree qualification and she was the only eligible person at the relevant point of time, accordingly she made representation to the fourth respondent for providing compassionate appointment enclosing necessary certificates. However, the said application was returned on the ground that there was a ban for recruitment vide G.O.Ms.No.212, Personnel and Administrative Reforms(P) Department, dated 29.11.2001. Subsequently, the petitioner's daughter got married in the year 2013 and her son attained majority in the year 2014. Therefore, the petitioner made another application on 02.06.2014, which was rejected on the ground that the application was made beyond the period of three years, as against which the petitioner filed a writ of mandamus before this Court in W.P.(MD).No.3972 of 2016 and this Court, by order, dated 25.02.2016 issued a direction to the third respondent to consider the representation of the petitioner dated 02.06.2014 within four weeks time. In compliance of the said order, the third respondent passed the order impugned in this petition. Challenging the said impugned order, this writ petition has been filed.

3. The learned counsel for the petitioner would submit that though the initial application was returned by quoting the ban on the recruitment on compassionate ground and after lifting the ban, the petitioner's son became eligible for compassionate appointment, thereby he filed another application, which was also rejected and thereafter along with the Copy of the Court order, again he made an application on 18.03.2016 and the said application was also rejected on the ground that the petitioner made application beyond three years. Such order is not sustainable in law. He further submitted that the subsequent applications are in continuation of the earlier application made by the petitioner, and accordingly, he prayed for allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that though there was a ban between 2001 and 2006, the ban was lifted on 07.02.2006 and immediately after lifting the ban the petitioner ought to have made application within three years from the date of lifting the ban order, ie., on 07.02.2006, however, the said application was made in the year 2014, ie., 27.08.2014, that too beyond nine

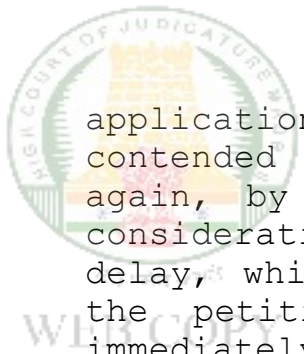


years, and hence the said application was rejected on 07.11.2014 for lapse of time. However, without challenging the said rejection order, suppressing the said fact, the petitioner obtained a direction through this Court, which was also rejected on the ground of delay. Hence, as per prevailing rules/instructions, the respondents rejected the request of the petitioner seeking compassionate appointment. In this regard, reliance was placed on the decision of the Division Bench of this Court in W.A.No.3899 of 2019 dated 11.03.2020, where the Division Bench has held that any application beyond the period of three years cannot be entertained.

5. Heard the contentions advanced by the learned counsel on either side and perused the materials available on record.

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after three years, ie., after her son attained majority. In this regard, useful reference can be had to the decision of the Division Bench of this Court in **W.A.No.3899 of 2019, dated 11.03.2020 (P.Poongodi vs. The Chairman)** on which reliance has been placed by the respondents, wherein it has been 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 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 to be construed strictly.

7. Considering the facts and circumstances of the case, it is not in dispute that admittedly, the petitioner's husband died in the year 2002 and initially, the petitioner made an application on 30.04.2003 for compassionate appointment, which was returned due to the ban on recruitment and it is also admitted that after lifting the ban order in the year 2006, again the petitioner made application on 02.06.2014, prior to that application her daughter got married and hence, the petitioner requested appointment for her son since he attained majority at the relevant point of time and he also came under the eligibility criteria. The said



application was also rejected on 07.11.2014, but the petitioner contended that the said order was not communicated to her and again, by way of Court order she made another application for consideration and the same was also rejected on the ground of delay, which is impugned in the present writ petition. However, the petitioner did not take any steps to make application immediately after lifting the ban order and further at the time of death of the Government Employee, minor cannot be entitled for compassionate appointment. Moreover, the petitioner has not established before this Court that her family is facing financial hardship. Hence in the absence of any evidence, this Court is not inclined to grant the relief sought for by the petitioner in this petition.

8. In the light of the decision of the Division Bench in Poongodi's case (Supra), the present petition is wholly unsustainable and, accordingly deserves to be dismissed. Accordingly, this writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (T&P)

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/ /2021

Sub Assistant Registrar(CS)

PJL

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 Secretary to Government,
Home Department,
Secretariat,
Chennai-09.

2.The Additional Director,
Department of Survey and Land Records,
Chennai-05.



3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Assistant Director,
District Survey and Land Records,
Ramanathapuram.

+1 CC to SGP (SR-4290[F] dated 10/02/2021)

W.P (MD) No.18314 of 2016

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