



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.23605 of 2016

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... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Chepauk,
Chennai -5.

2.The Regional Director of Municipal Administration,
Kochadai,
Madurai,
Madurai District.

3.The Commissioner,
Sivagangai Municipality,
Sivagangai,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the third respondent in Na.Ka.No.740/2014/C1, dated 11.08.2016 in rejecting the application for compassionate appointment as illegal and arbitrary and further direct the respondents to provide employment on compassionate ground to the petitioner.

For Petitioner : Mr.D.Selvaraj

For R1 & R2 : Mr.M.Muthu Geethayan
Special Government Pleader

For R3 : Mr.J.Parekh Kumar
for Mr.P.Srinivas, Standing counsel

O R D E R

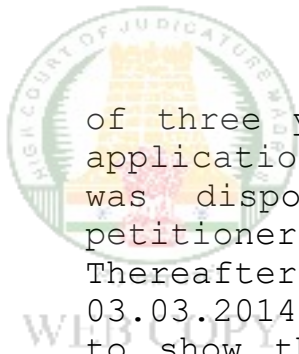
This writ petition has been filed challenging the impugned order passed by the third respondent in Na.Ka.No.740/2014/C1, dated 11.08.2016 and quash the same and consequently, direct the respondents to provide employment on compassionate ground to the petitioner.



2. The case of the petitioner is that her mother worked in the third respondent Municipality as a Sanitary Worker and died in harness on 08.04.2010, leaving behind the petitioner as legal heir. She further averred that her mother was the only earning member of the family and due to the sudden demise of her mother, it is very difficult to lead day-to-day livelihood. Hence, the petitioner has sent a representation to the Chief Minister cell for compassionate appointment, on 11.02.2011 and the said representation was disposed of by the first respondent and directed the petitioner to approach the third respondent for compassionate appointment. Therefore, the petitioner has made an application before the third respondent for compassionate appointment. Since no step was taken, she again sent a detailed representation to the respondents, on 08.09.2015. After receipt of the same, the second respondent has forwarded the papers to the third respondent for disposal of the petitioner's application, dated 08.09.2015. Thereafter, this application was taken on file by the third respondent and the third respondent requested the petitioner to furnish the legal heir certificate, the petitioner's father status and the proof for destitute woman. The petitioner has forwarded the said documents. Even thereafter the said application was not considered. Hence, the petitioner has filed a writ petition before this Court in W.P.No.2138 of 2016 and the said writ petition was disposed of by this Court on 01.02.2016 and directed the first respondent therein to consider the representation of the petitioner, dated 21.11.2015 and disposed of within a period of six weeks. In compliance of the said order, the present impugned order was passed, rejecting the petitioner's application on the ground that at the time of death of the petitioner's mother, the petitioner's age is 39 years and she has to make an application within a period of three years. However, she made an application after a period of four years and further, the Scheme provides compassionate appointment to the unmarried daughter alone. Against which, the present writ petition has been filed by the petitioner.

3. The learned counsel appearing for the petitioner would submit that initially the petitioner has made an application to the Chief Minister cell within a time and the second application is continuation of the earlier application and hence, the same cannot be rejected. He would further submit that the age limit was fixed as 40 years in G.O.(Ms.).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, for the son or daughter of the deceased Government Servant, at the time of applying. Hence, he prayed for allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that as per the Scheme, the petitioner has to make an application within a period



of three years. In the present case, the petitioner has made an application before the Chief Minister cell and that application was disposed of by the first respondent and directed the petitioner to make an application to the third respondent. Thereafter, the petitioner has made an application only on 03.03.2014, after lapse of four years. Further, there is no proof to show that the petitioner is destitute woman and she has not produced the No Objection Certificate from the other legal heirs. In the absence of any convincing records to show that the petitioner family is in indigent circumstances, the impugned order cannot be interfered with. Accordingly, he prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2, the learned Standing counsel appearing for the third respondent and perused the materials available on record.

6. Initially the petitioner has made an application to the Chief Minister cell in the year 2011 and the said application was disposed of by the first respondent and directed the petitioner to make an application before the third respondent and admittedly, the petitioner has made an application before the competent authority viz., the third respondent well after three years. Further, the petitioner also not able to establish that she was a destitute woman by her husband. 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 (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 must be made without any delay.

7. 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.



8. In the light of the decision of the **Division Bench of this Court** in **W.A.No.3899 of 2019 (P.Poongodi vs. The Chairman)**, there is no merit in this writ petition and it deserves dismissal and accordingly, the Writ Petition is dismissed. However, in the circumstances of the case, there will be no order as to costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Commissioner of Municipal Administration,
Chepauk,
Chennai -5.

2.The Regional Director of Municipal Administration,
Kochadai,
Madurai,
Madurai District.

+1 CC to SGP (SR-1371[F] dated 20/01/2021)

+1 CC to Mr.P.SRINIVAS, Advocate (SR-1454[F] dated 20/01/2021)

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KM (09.02.2021) 4P 5C