



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.8965 of 2016

S.Valliraj

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai - 600 009.

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

3. Tirunelveli Corporation,
Rep. by its Commissioner,
Tirunelveli.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records of the 2nd respondent in Mu.Mu.No.4942/2014/Ma.Na.A3, dated 25.08.2015 and the consequential order dated 10.06.2015 passed by the 3rd respondent in Na.Ka.No.C1/10612/06, quash the same and direct the respondents to give compassionate appointment to the petitioner, within a time frame to be fixed by this Court.

For Petitioner :Mr.R.Subramanian

For Respondents :Mr.A.Karthick,
Government Advocate for R1 and R2
Mr.Aayiram K.Selvakumar
Standing Counsel for R3

ORDER

The writ petition has been filed seeking a direction to the respondents to give compassionate appointment to the petitioner within the time to be fixed by this Court.

2. The case of the petitioner is that his father, who was
<https://www.mca.gov.in/Services> Secondary Supervisor, died on 17.12.1996, leaving behind



his family in indigent circumstances. At the time of death of his father, he was six years old. Therefore, the petitioner's mother, on 18.03.1997, submitted an application before the 3rd respondent for compassionate appointment along with all necessary documents. The Tahsildar, Tirunelveli, also issued a certificate certifying that they are in a penurious condition. In response to the application, the 3rd respondent, by a memo dated 30.07.1999, directed the petitioner's mother to produce death certificate, community certificate and the certificates showing educational qualification. Accordingly, all the certificates required by the 3rd respondent were duly submitted by his mother. However, the 3rd respondent has not considered the same. In the mean time, the petitioner's elder brother attained majority, therefore, the petitioner's mother submitted an application on behalf of her elder son for compassionate appointment before the 3rd respondent on 05.09.2000. Though there were vacancies available, the respondents 2 and 3 have deliberately kept the application pending. Subsequently, due to the ban on recruitment, the application was not considered between 2001 and 2006. Even thereafter, citing non-availability of posts, the application was kept pending. In the mean time, the petitioner completed his Higher Secondary School Education and attained majority, therefore, he submitted an application, on 20.03.2013, before the 3rd respondent for compassionate appointment by enclosing all relevant documents. However, the 3rd respondent, by his order dated 10.06.2015, rejected the claim of the petitioner on the ground that it was a belated application. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that petitioner's father died in the year 1996 and immediately thereafter, the petitioner's mother made an application in the year 1997, i.e. within three years from the date of death of her husband. However, the said application was not processed by the 3rd respondent and the same was kept pending. The petitioner's mother made another application on behalf of her elder son for compassionate appointment in the year 2000, that application was also not processed by the 3rd respondent. Thereafter only, the petitioner made an application in the year 2013. However, the said application was rejected on the ground that it was a belated application. The learned counsel further submitted that there was no delay on the part of the petitioner, since the petitioner's mother made the application immediately after the death of her husband, but, the 3rd respondent has not considered the said application. Further, it is the duty of the respondents to consider the financial circumstances of the deceased family, while considering the application for compassionate appointment. But, without considering the same, the 3rd respondent mechanically rejected the application on the ground



of delay, which is unsustainable in law. Therefore, he prayed for allowing the writ petition.

4. Per contra, the learned counsel appearing for the respondents submitted that though the petitioner's mother made an application on 18.03.1997, seeking compassionate appointment, she has failed to produce the required documents and certificates before the respondents. Therefore, the respondents could not consider the same. Further, the petitioner's mother made another application on behalf of her elder son on 05.09.2000. Due to the ban on recruitment, the claim of the petitioner's brother was not considered. Thereafter, the petitioner made the application for compassionate appointment, on 20.03.2013, i.e. after 16 years from the date of death of his father. Therefore, the 3rd respondent has rejected the said application on the ground of delay, which does not warrant any interference.

5. Heard both sides and perused the materials available on record.

6. It is the claim of the petitioner that his mother submitted the application for compassionate appointment in the year 1997, immediately after the death of her husband, for which, the 3rd respondent directed the petitioner's mother to produce all relevant documents and she also produced all relevant documents to the 3rd respondent, despite the same, the said application was not considered. Though it is claimed that the petitioner's mother submitted all documents before the 3rd respondent, there are no sufficient materials to substantiate the same.

7. It is the further claim of the petitioner that on attaining majority, he has submitted the application for the compassionate appointment before the 3rd respondent in the year 2013, however, the said application was rejected on the ground of delay of 16 years. As per G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the application for compassionate appointment should be made within three years from the date of death of the Government employee. But, the application was made by the petitioner after 16 years from the date of death of his father. Therefore, it is a belated application and the respondents have rightly rejected the said application on the ground of laches.

8. Further, the claim of the petitioner is that due to the sudden death of his father, his family was in a penurious condition and his mother struggled for running the family. But, in the calamitous situation, the petitioner's mother brought up her children and the petitioner has also completed his Higher Secondary School Education, which clearly shows that the family



definitely had means to sustain itself even during the distressed situation. Therefore, the claim of the petitioner cannot be accepted.

9. With the above observation, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

OGY
To

1. The Principal Secretary,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai - 600 009.

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

3. The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

+1 CC to SPL GP (SR-4676[F] dated 12/02/2021)

+1 CC to Mr.R.SUBRAMANIAN, Advocate (SR-4601[F] dated 11/02/2021)

W.P. (MD)No.8965 of 2016
10.02.2021

KM (01.03.2021) 4P 6C