



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.20335 of 2017

WEB COPY

R.Manikandan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Assistant Director,
District Survey Office,
Nagercoil,
Kanyakumari District.

... 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 relating to the impugned orders passed by the first respondent in his proceedings in Na.Ka.Na.2/6442/13, dated 05.06.2014 and in Na.Ka.Na2/4126/2015 dated 10.02.2017 and quash the same and consequently direct the second respondent herein to provide employment to the petitioner on compassionate ground for the death of his father U.Ramasamy, based on his application dated 27.12.2013.

For Petitioner	: Mr.D.Srinivasaragavan
For Respondents	: Mr.C.M.Marichelliah Prabhu Additional Government Pleader

O R D E R

This writ petition has been filed challenging the impugned orders passed by the first respondent in Na.Ka.Na.2/6442/13, dated 05.06.2014 and in Na.Ka.Na2/4126/2015, dated 10.02.2017 and quash the same and consequently direct the second respondent to provide employment to the petitioner on compassionate ground, for the death of his father U.Ramasamy, based on his application dated 27.12.2013.

2. The case of the petitioner is that his father was working as a Sub Inspector of Survey in the Land Survey Department and died in harness on 28.04.2012, leaving behind the petitioner, mother, younger brother, grandfather and his grandmother as legal heirs. At the time of death of the petitioner's father, he was only 14 years old and studying 9th standard. Hence, no eligible person is available in the family. Therefore, the petitioner has made an application on



27.12.2013, seeking employment on compassionate ground. However, the said application was rejected on 05.06.2014, on the ground that the petitioner has not completed 18 years of age and he was a minor. Thereafter, on 20.09.2016, the petitioner's mother sent a representation to the Chief Minister cell seeking intervention in the matter, for which, the first respondent has sent a reply on 05.01.2017, reiterating the earlier stand of the second respondent. Thereafter, the petitioner has made a request to the Secretary to Government, Revenue Department, on 18.01.2017, to reconsider the issue. But, without considering the indigent circumstances of the petitioner's family, the second respondent has rejected the request of the petitioner on the ground that the petitioner has not completed 18 years of age. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that at the time of death of the petitioner's father, he was 14 years old and he made an application for compassionate appointment on 27.12.2013 and the object of the Scheme is to give or safeguard the Government Employee's family from sudden financial crisis. However, without considering the financial crisis faced by the petitioner's family, the second respondent has rejected the petitioner's application on the ground that he has not completed 18 years of age, on the date of expiry of three years period from the death of his father. Hence, he prayed for allowing this writ petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that at the time of death of the petitioner's father, he was a minor and the application made by the petitioner is a defective one and hence, the same was rejected as early as 05.06.2014. Thereafter, the petitioner has made an application to the Secretary to Government, Revenue Department, on 18.01.2017, to reconsider the issue and after considering all these aspects, the second respondent has rejected the same which cannot be reconsidered. In this regard, the learned Additional Government Pleader has relied on a decision of this Court in the case of **S.Saravanakumar vs. P.Marimuthu** reported in **2016(5)CTC 125** and it is relevant to extract the following paragraphs.

"38.Needless to state that for entry into any service in the State, the minimum age is 18 years, and no minor can be appointed to any service. Therefore, he cannot make any application for appointment to any post in service and no post can be kept vacant for him, till he attains majority. Post which fall vacant have to be filled up as per the recruitment rules. Employment assistance on compassionate appointment, is only a concession, extended to an eligible member of the family, to apply for a suitable post, in the service, in which, the employee/Government servant died in



harness and it is not a right, which can be exercised by a minor on attainment of majority.

39. Thus, for a reasons stated supra, we are of the view that continuation of penury or indigent circumstances of the family, alone is not the factor to be considered by the department, while examining the request of an applicant for appointment on compassionate grounds. Reading of the Government orders shows that scheme can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide employment assistance as and when the son or daughter of the deceased employee attains majority. Under the scheme, the department is not obligated to keep any post vacant, till the applicant attains majority or to consider his candidature on attaining majority. Scheme only enables those who are eligible and satisfy all the eligibility criteria including age, within three years from the date of death."

5. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. On the date of death of the employee, the applicant was a minor and hence, his application for compassionate appointment was rejected and thereafter, another application was filed beyond the prescribed period of limitation.

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. As already pointed out by the learned Additional Government Pleader that the very same issue was already decided by this Court in the case of **S.Saravanakumar vs. P.Marimuthu** reported in **2016(5) CTC 125** and in paragraph Nos.38 and 39, this Court has clearly held that no minor can be appointed to any service and no post can be kept vacant for the particular person till he attains majority and



the said vacant has to be filled up, as per the recruitment rules.

9. In view of the categorical decision cited supra, 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.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Assistant Director,
District Survey Office,
Nagercoil,
Kanyakumari District.

+1 CC to GP (SR-1642[F] dated 21/01/2021)

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(SSS)

KV(12.02.2021) 4P 4C