



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

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THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P. (MD) No.2176 of 2017

Manikanda Prabhu

... Petitioner

Vs

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Kamuthi Taluk Office,
Kamuthi,
Ramanathapuram District.

... Respondents

PRAYER: Writ 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 order passed by the first respondent in his proceedings in Na.Ka.No.A4.24040/2011, dated 30.07.2015 and quash the same and consequently direct the first respondent to give a job to the petitioner on compassionate ground.

For Petitioner : Mr.G.Gomathisankar

For Respondents : Mr.C.M.Marichelliah Prabhu

Additional Government Pleader

O R D E R

The writ petition is filed challenging the impugned order passed by first respondent, dated 30.07.2015 in proceedings in Na.Ka.No.A4.24040/2011 and quash the same and consequently to direct the first respondent to appoint the petitioner on compassionate grounds.

2.It is the case of the petitioner that the petitioner's father was working as a Village Administrative Officer in D.Punaasal Village. Initially, the petitioner's father married one Paranjothi and they were blessed with one male child, namely, Balasankar and the said Balasankar is a mentally retarded person and after the death of said Paranjothi, the petitioner's father married petitioner's mother in the year 1993. Thereafter, they were blessed with the petitioner and his sister. The entire family is depending on the salary of the petitioner's father. Whiles, the petitioner's father died in harness on 05.05.2008, leaving behind the petitioner and other legal heirs. At the time of his death, the petitioner was a minor and thereafter, the petitioner's mother had filed an application on 02.05.2011 seeking compassionate appointment. However, the said application was rejected on 30.07.2015.



Challenging the same, the present writ petition has been filed with the above said prayer.

3.The learned counsel for the petitioner would submit that though at the time of making application, the petitioner is a minor. Now the petitioner has attained majority and further, at the time of impugned order, dated 30.07.2015, the petitioner attained majority. However, without considering the said aspect mechanically rejected after four years, is not permissible one. Accordingly, he prayed for allowing this writ petition.

4.The learned Additional Government Pleader appearing for the respondent would submit that at the time of the death of his father, the petitioner is a minor. Since the petitioner's father died in the year 2008, the petitioner's mother filed an application in the year 2011. After three years, the petitioner is a minor and further, the petitioner pursued the application finally, the authority rejected the application on the ground that the petitioner is a minor. The minor child is not entitled for any right to seek compassionate appointment. Hence, he prayed for dismissal of this petition.

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

6. 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. 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.

7.In the present case, it is not in dispute that the petitioner's father died in the year 2008 and the petitioner's mother filed an application seeking compassionate appointment in the year 2011. At the time, the petitioner is a minor and he has not attained the age of 18 years. Further, the petitioner's mother has not filed an application for seeking compassionate appointment on her and she filed the application only for the petitioner who is a minor at the time, though the petitioner in the year 2015, has attained the age of majority. However, at the time of application, he is only a minor. Since the application itself is defective and the order impugned in the writ petition cannot be interfered with and further, in C.O. Ms.No.155, dated 10.12.2014 makes it clear that the



legal heir of the deceased Government servant who have completed 18 years, the application has to be eligible for getting appointment, when the petitioner itself not have possessed eligibility criteria.

8.The similar issue was came up for consideration before the Hon'ble Division Bench of this Court in W.A.No.329 of 2015, dated 22.04.2016, reported in **2016(5) CTC 125** wherein, it has held as follows:-

"...8.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. Posts 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 the 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..."

9.In view of the reasons stated supra, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Kamuthi Taluk Office,
Kamuthi,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-1412[F] dated 20/01/2021)

+1 CC to M/s.G.GOMATHISANKAR, Advocate (SR-1274[F] dated 19/01/2021)

W.P. (MD) No.2176 of 2017
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VR (CO)
KB (09.02.2021) 4P 6C