



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

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

W.P.(MD)No.21938 of 2017

M.Praveenkumar

: Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai-600 004.

2.The Commissioner of Police,
Madurai Town, Madurai.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka.No.A4/51944/2016, dated 03.01.2017 and quash the same and consequently, to direct the respondents herein to consider the petitioner for compassionate appointment giving relaxation to 3 years rule of limitation so as to achieve the real object of the scheme.

For Petitioner
For Respondents

:Mr.K.Appadurai
:Mr.Marichelliah Prabhu
Additional Government Pleader

ORDER

The case of the the petitioner is that his father, N.Murugan, was employed as Police Constable and met with a road accident on 25.04.2000 and died leaving behind the petitioner and his mother. The petitioner's mother deserted the petitioner and contracted second marriage. The petitioner was brought up by his grandmother. After attaining majority, the petitioner has made an application to the respondents for compassionate appointment on 22.09.2016. However, the said application was rejected by the authorities on the ground that the petitioner has not made the application within a period of three years. Challenging the same, the present Writ Petition is filed.

2.The learned Counsel for the petitioner would submit that at the time of death of petitioner's father, the petitioner is two years old and no eligible person is available in his family and that immediately, after attaining majority, the petitioner made application. Hence, he would submit that the petitioner's application is well within the time.

3.The learned Counsel for the petitioner would also submit that similar issue was also considered by this Court in **A.Kamatchi vs. The Chairman, Tamil Nadu Electricity Board**, reported in **2013 (2) CWC 758**, wherein, this Court has held as follows:



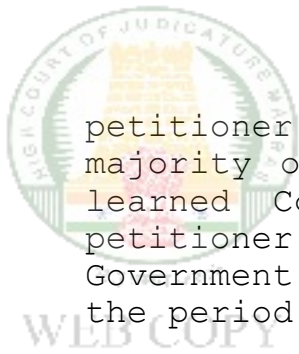
16. Now, cleared of the legal position, it is pertinent to note that within three years of her husband's death, Thirumalai, the mother of the appellant has applied for her appointment on compassionate ground, she was not appointed for want of vacancy, so, she was not denied job, now, she cannot be appointed because of her age, within three years of his attaining majority the appellant had applied for appointment. The legal heirs of the deceased employee, namely, appellant's mother and his sister have also given their no objection for appellant's appointment. The appellant is also well within the eligible age for appointment. In the circumstances, the impugned order of the third respondent, dated 1.2.2010 and of the Writ Court, dated 13.9.2010 are unsustainable in law.

4. Per contra, the learned Additional Government Pleader would submit that the petitioner's father was met with an accident on 25.04.2000 and died and financial assistance was provided to the petitioner's family. He would submit that the petitioner's mother, by name, Tmt. Rathika is working as Sub-Inspector of Police at Theni District. He would also submit that the even though the petitioner's mother is a Government servant, family pension was authorised to her. After the petitioner's mother contracted second marriage, the family pension was admitted to the petitioner through his mother.

5. The learned Additional Government Pleader would also submit that the petitioner was a minor at the time of death of his father and his mother is working in the Police Department and hence, the petitioner or his mother has not applied for seeking compassionate ground appointment within three years period prescribed in G.O. Ms. No. 120, Labour and Employment Department, dated 26.06.1995. He would further submit that since the petitioner has made the application only after the limitation period, the respondents have rightly rejected the application of the petitioner and he prays for dismissal of this Writ Petition.

6. Heard Mr. K. Appadurai, learned Counsel for the petitioner and Mr. Marichelliah Prabhu, learned Additional Government Pleader appearing for the respondents.

7. Considering the facts and circumstances of the case, the facts in this case are not in dispute. Admittedly, the petitioner's father was working as Police Constable and died in the year 2000 in a road accident. It is also not in dispute that the petitioner's mother is working as Sub Inspector of Police in Theni District and at the time of death of petitioner's father, the petitioner's mother is working as Government servant. The petitioner has also received pension through his mother. It is also not in dispute that the



petitioner is minor at time of death of his father and he attained majority only in the year 2016. The judgment relied upon by the learned Counsel for the petitioner is not applicable to the petitioner's case, since the petitioner's mother is working as Government servant and the petitioner has made application beyond the period of three years.

8.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.

9.In view of the discussion above, this Court is of the view that there is no merit in this Writ Petition and is not inclined to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr
To

1.The Director General of Police,
Mylapore, Chennai-600 004.

2.The Commissioner of Police,
Madurai Town, Madurai.

+1 CC to M/s.SPL GP (SR-1646[F] dated 21/01/2021)

W.P. (MD)No.21938 of 2017
20.01.2021

MJ(CO)
KB(08.02.2021) 3P 4C