



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.21962 of 2017

B.Jeevamani

: Petitioner

Vs.

1.The Joint Director,
Fire and Rescue Services,
Northern Region,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-8.

2.The Divisional Officer,
Fire and Rescue Services Department,
Madurai Division, Madurai.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to provide compassionate appointment to the petitioner in any suitable post.

For Petitioner
For Respondents

:Mr.T.Lajapathi Roy
:Mr.D.Muruganantham
Additional Government Pleader

ORDER

It is the case of the petitioner that her father, while working in the Fire and Rescue Services Department, passed away on 04.02.2000. Thereafter, the petitioner made application in the year 2006 seeking for employment on compassionate ground. However, the said application was not considered. Again, the petitioner's mother made application in the year 2008. The said application was considered and the respondents have sought for certain documents. As such, the petitioner has submitted all the relevant documents to the authorities. Despite several reminders being sent by the petitioner, the representation of the petitioner has not been considered till date, that necessitate filing of this Writ Petition.

2.The learned Counsel for the petitioner would submit that after the death of petitioner's father, the petitioner's brother got employment and he deserted the petitioner and her mother. Thereafter, the petitioner's mother made application in the year 2008. The learned Counsel would submit that despite the authorities have sought for certain documents and the petitioner has also submitted all the necessary documents, till date the representation seeking for employment on compassionate ground is not considered by the respondents.



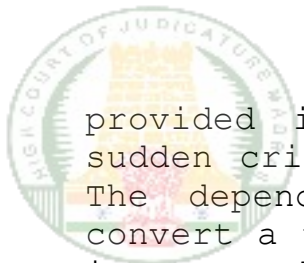
3.The learned Counsel for the petitioner would submit that this Court may issue direction to the respondents to consider the petitioner's representation within a time stipulated by this Court.

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4.The learned Additional Government Pleader appearing for the respondents would submit that no application for grant of appointment on compassionate ground was submitted by the petitioner within three years. He would further submit that the petitioner has made application only in the year 2008. He would also submit that as per the scheme for grant of compassionate appointment, the application can be considered only, if they are filed within three years from the date of death of a Government Employee. However, in this case, the petitioner made application beyond the period of three years. He would also submit that there is no provision in the scheme for grant of compassionate appointment to a daughter, who got married long ago. He would also submit that as per the records available with the respondents, it is seen that the petitioner got married way back on 01.11.1992. He would also submit that there was also an elder sister to the petitioner and who aged about 33 years at the time of death of her father. Hence, the petitioner cannot lay a claim for compassionate appointment after a long period from the date of her marriage. He would further submit that the prayer sought for in this Writ Petition cannot be granted and he prays for dismissal of this Writ Petition.

5.Considering the facts and circumstances of the case, the facts in the present case are not in dispute. Admittedly, the petitioner's father passed away in 2000. The petitioner has made application in the year 2006, beyond the period of three years and there is no proof available and no acknowledgment card is enclosed in the typed set of papers. Subsequently, the petitioner's mother made application in the year 2008, in which certain particulars were called for. However, neither the petitioner nor her pursue the said application. Even as per G.O.Ms.No.182, the petitioner has to made application within a period of three years. Even in the recent Government Order issued based on the direction of this Court, vide G.O.Ms.No.18, Labor and Employment (Q1) Department, dated 23.01.2020, makes it clear that the time limit to prefer the application is three years from the date of the death of a Government servant. Contrary to the same, the petitioner made application beyond the period of seven years, which cannot be considered.

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. 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.

7. In view of the above, this Court is of the view that no Mandamus can be issued and accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

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To

1. The Joint Director,
Fire and Rescue Services,
Northern Region, No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-8.

2. The Divisional Officer,
Fire and Rescue Services Department,
Madurai Division, Madurai.

+1 CC to Mr. T. LAJAPATHI ROY, Advocate (SR-1523[F] dated
21/01/2021)

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