



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.22178 of 2017

and

W.M.P(MD)No.18478 of 2017

WEB COPY

A.Shanmugavel

... Petitioner

Vs.

1. District Collector,
Thirunelveli District,
Thirunelveli.

2. Assistant Director,
Thirunelveli Divisional Town Panchayat,
Thirunelveli.

3. The Executive Officer,
Special Grade Town Panchayat,
Cheranmadevi,
Thirunelveli.

... 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 order passed by the third respondent in Ac/15/15266/dated 20.10.2015 and order dated 30.11.2016 and quash the same further direct the respondents to consider the petitioner for compassionate appointment in the third respondent Town Panchayat.

For Petitioner	:	Mr.S.Parthasarathy
For Respondent Nos.1 and 2	:	Mr.M.Muthugeethayan Special Government Pleader
For Respondent No.3	:	Mr.Aayiram K.Selvakumar Standing Counsel

ORDER

This writ petition is filed seeking a writ of Certiorari Mandamus, to quash the order passed by the third respondent in Ac/15/15266/dated 20.10.2015 and order dated 30.11.2016 and further direct the respondents to consider the petitioner for compassionate appointment in the third respondent Town Panchayat.

2. The case of the petitioner is that the petitioner's father, namely, Arumugam was working as a Water Tank Night Watchman in Cheranmadevi Town Panchayat on permanent basis. On 17.02.2001, he expired leaving behind the petitioner, her sister, mother and grandmother. After the death of her father, the petitioner's family put hardship and suffering a lot for want of financial assistance.



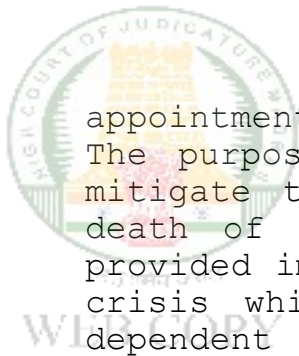
Since the petitioner was aged about 4 years and her sister was aged about 6 years at the time of death of her father, the petitioner's mother made a representation on 26.02.2002 to the third respondent for providing the compassionate appointment to the eligible family members after they attained majority. After attaining majority, the petitioner made a representation on 19.10.2015 to the third respondent seeking compassionate appointment, but the third respondent without considering the family circumstances of the petitioner, rejected the request on 20.10.2015 on the ground that the application for compassionate appointment shall be made within a period of three years from the date of death of the employee. Thereafter, the petitioner sent a representation on 13.08.2016 to the second respondent as well as the Chief Minister Cell to consider her representation. Thereby, the said representation was forwarded to the concerned respondent by taking necessary action. Thereafter, the said request was rejected by the third respondent on 30.11.2016 by stating that already order was passed on 20.10.2015 in this regard. Aggrieved by the same, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that the petitioner's mother made representation immediately after the death of the petitioner's father, ie., within a period of three years. After attaining majority, the petitioner made a fresh representation for compassionate appointment, which is in time and for non-consideration of the petitioner's request and rejecting the same is unsustainable one and hence, he prayed for allowing the writ petition.

4. Per contra, the learned Standing counsel appearing for the third respondent and the learned Special Government Pleader appearing for the first and second respondents would submit that the application for compassionate appointment has been filed after a long lapse of time. Hence, as per prevailing rules/instructions, the respondents rejected the request of the petitioner seeking compassionate appointment. In this regard, reliance was placed on the decision of the Division Bench of this Court in W.A.No.3899 of 2019 dated 11.03.2020, where the Division Bench has held that any application beyond the period of three years cannot be entertained.

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

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after three years, ie., after they attained majority. In this regard, useful reference can be had to the decision of the Division Bench of this Court in **W.A.No.3899 of 2019, dated 11.03.2020 (P.Poongodi vs. The Chairman)** on which reliance has been placed by the respondents, wherein it has been categorically held that the claim for



appointment on compassionate basis must be made without any delay. 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 to be construed strictly.

7. In the light of the decision of the Division Bench in Poongodi's case (Supra), the present petition is wholly unsustainable and, accordingly deserves to be dismissed. Accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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. District Collector,
Thirunelveli District,
Thirunelveli.

2. Assistant Director,
Thirunelveli Divisional Town Panchayat,
Tirunelveli.



3. The Executive Officer,
Special Grade Town Panchayat,
Cheranmadevi,
Thirunelveli.

+3 CC to M/s.S.PARTHA SARATHY, Advocate (SR-2500[F] dated
29/01/2021)

+1 CC to M/s.SPL GP (SR-2209[F] dated 27/01/2021)

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SRK (CO)
KB (08.02.2021) 4P 8C