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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.2767 of 2020

J. Jayaselvi

... Petitioner

Vs.

1. The Secretary to Government,
Transport Department,
Secretariat,
Chennai - 600 009.
2. The Managing Director,
Tamilnadu State Transport Corporation,
Chennai - 600 002.
3. The General Manager,
Tamilnadu State Transport Corporation,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of certiorarified mandamus, calling for the entire records connected with the proceedings of the third respondent in Lr.No.tip1787/mava2/avipoka/2019 dated 09.04.2019 and quash the same consequently direct the respondents to provide a suitable job to the petitioner's son Mr.Jerin Leo on compassionate ground within a time frame fixed by this court.

For Petitioner : Mr. K. Thilageswaran

For Respondents: Mr. V. Jeevagiridharan,
Additional Government Pleader, for R1

ORDER

The writ petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the proceedings of the third respondent in Lr.No.tip1787/mava2/avipoka/2019 dated 09.04.2019 and quash the same and consequently direct the respondents to provide a suitable job to the petitioner's son Mr.Jerin Leo on compassionate ground within a time frame fixed by this court.



2. According to the petitioner, her husband died on 12.06.2008 in harness, while he was in service. Thereafter, the petitioner has submitted an application on 28.04.2009 in person to the respondent corporation to provide employment to her on compassionate grounds. She is still waiting for her opportunity to consider her application for providing employment on compassionate grounds by the respondent corporation. But, so far, there is no response. Hence, another application dated 20.02.2019 was submitted by her to provide employment to her son on compassionate grounds. The said application was rejected by the respondent corporation on 09.04.2019, for the reason that the said application is time barred and it was submitted beyond the period of three years. The application submitted by the petitioner was not entertained in the light of Judgment of the Hon'ble Supreme Court in the case of 'Government of India and another v. P.Venkatesh [(2019) 15 SCC 613]'.
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3. Challenging the said order, the present writ petition has been filed before this court.

4. The learned Standing Counsel appearing for the respondents submitted that the aforesaid application was rightly rejected for the reason that the aforesaid application was submitted beyond the period of three years.

5. I have anxiously considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. The contention of the petitioner is that she has submitted the application in person to the respondent corporation on 28.04.2009. But no material proof or any acknowledgment due has been enclosed in the typed set of papers. There is no substantial material to prove before this court. Therefore, this court is unable to accept the said contention of the petitioner. Hence, the application submitted by the petitioner is clearly beyond the period of three years and the said application cannot be entertained and therefore the respondent corporation has rightly rejected her claim.

7. Identical issue came up before the Honourable Division Bench of this Court in W.A.No.1749 of 2019 (Sudhanthira Devi vs. The State of Tamil Nadu and others), by Judgment dated 03.09.2019, following the decisions of the Honourable Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

8. In Government of India and another v. P.Venkatesh [(2019) 15 SCC 613], the Honourable Supreme Court has held as follows:



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"8. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.

9. ...

10. Bearing in mind the above principles, this Court held: (Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

9. The Honourable Full Bench in Paragraph No.13 of the Judgment dated 11.03.2020 in W.P.(MD) No.7016 of 2011 has held as follows:

"13. In the light of the above we find that the judgment in the case of A.Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E.Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it



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also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."

10. Furthermore, G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, has clearly prescribed the time limit to prefer application for compassionate appointment as three years from the date of death of the Government servants.

11. In the case on hand, admittedly, the petitioner's husband died on 12.06.2008 and the petitioner, submitted the application for compassionate appointment only on 20.02.2019, nearly after a lapse of eleven years. Therefore, in view of the above settled legal position, the claim of the petitioner made beyond the prescribed period of three years cannot be entertained and it deserves to be rejected. Accordingly, the impugned order does not warrant any interference of this Court.

12. In fine, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Secretary to Government,
Transport Department,
Secretariat,
Chennai - 600 009.
2. The Managing Director,
Tamilnadu State Transport Corporation,
Chennai - 600 002.



3. The General Manager,
Tamilnadu State Transport Corporation,
Chennai.

+1cc to the Government Pleader, S.R.No.10295

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AJB (CO)
CT 09/03/2022