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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.8494 OF 2022

E.Venmugilan
S/o.Late.Elanchezhiyan,

...Petitioner

Vs

1. The Directorate of School Education
College Road, Chennai - 600 006.
2. The District Educational Officer
Vellore District - 632 001.
3. The District Collector,
District Collector Office,
Vellore 632 009.
4. The Headmaster
Govt. Higher Secondary School
Konavattam, Vellore - 632 103.

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, or any other writ or order or direction in the nature of Writ of Mandamus directing the 2nd and 4th respondents to consider the petitioner's representation dated 17.10.2015 and 25.02.2019 and take proper action within a stipulated time.

For Petitioner	: Mr.M.Dwarakanath
For Respondents	: Mr.V.Manoharan, Additional Government Pleader

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself..

2. This writ petition has been filed seeking to issue a Writ



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family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family."

8. In Bhawani Prasad Sankar vs. Union of India and Others [2011 (3) LLN 37 (SC)], the Honourable Supreme Court has held as follows:

"(i) Compassionate employment cannot be made in the absence of Rules or Regulations issued by the Government or a Public Authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make Compassionate Appointment dehors the Scheme.

(ii) ...

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be."

9. At this juncture, it is necessary to rely upon the decision of the Hon'ble Supreme Court in Government of India and another v. P.Venkatesh [(2019) 15 SCC 613], wherein, the Honourable Supreme Court has held as follows:

"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



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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."

The object of the claim for the employment is provided only due to the death of the employee while he was in harness and supporting the family members to maintain them. In the present case on hand, the deceased employee died on 19.01.2013. After a lapse of 7 years, the request of the petitioner seeking for such employment will not be considered by this Court, in the light of the aforesaid decision of the Hon'ble Supreme Court reported in [(2019) 15 SCC 613],..

10. Considering the facts and circumstances of the case and the decisions cited supra, prima facie, there is no merits in this petition and the same is liable to be dismissed.

11. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

mst

Sub Assistant Registrar



To

1. The Directorate of School Education
College Road, Chennai - 600 006.
2. The District Educational Officer
Vellore District - 632 001.
3. The District Collector,
District Collector Office,
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+1cc to the Government Pleader, S.R.No.24536

W.P.No.8494 of 2022

PM(CO)
PM/11/05/2022