



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12146 of 2014

K.Nageswari

... Petitioner

..Vs..

1.The Commissioner,
Corporation of Chennai,
Park Town,
Chennai - 600 003.

2.The Assistant Commissioner,
Corporation of Chennai,
Park Town,
Chennai - 600 003.

3.The Superintending Engineer, (Mechanical)
Mechanical Engineering Department,
Corporation of Chennai,
Park Town, Rippon Building,
Chennai - 600 003.

4.The Assistant Executive Engineer,
North Chennai Depot,
Mechanical Engineering Department,
Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai - 600 021.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in E.Pho.Thu.Va.Se.Pa.Na.Ka.No.P1/171/2012 dated 10.01.2013 passed by the third respondent, quash the same and direct the respondents to appoint the petitioner to an appropriate post suitable to her educational qualification on compassionate grounds in the light of modifications/clarifications issued in Govt. Letter No.39924/Q1/95-1 dated 11.10.95 to the G.O.Ms.No.120 dated 26.6.95 which introduced three years time limit to the existing scheme of appointments under compassionate grounds.



For Petitioner : M/s.S.Pushpakaran

For Respondents: M/s.S.Vaitheeswari
R1 to R4 Standing Counsel

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ORDER

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2. The father of the writ petitioner Mr. K. G. Venkatanarayanan, was working as motor mechanic in mechanical department and died on 11.03.1992 while he was in service. The petitioner states that she was minor during the relevant point of time and therefore, not eligible for appointment on compassionate grounds, however, the wife of the deceased employee has not submitted any application seeking appointment on compassionate grounds during the relevant point of time. Even as per the petitioner, the application itself was submitted only on 07.05.2012 after a lapse of about 20 years from the date of death of deceased employee. Prior to the application of the writ petitioner, the brother of the writ petitioner one Mr.K.Sateesh Kumar submitted an application in the year 1999 and the said application was also not considered on the ground that it was submitted after a lapse of 3 years from the date of death of the deceased. The brother of the writ petitioner also died and thereafter, the petitioner submitted an application in the year 2012.

3. The very purpose and object of the scheme of Compassionate appointment is to mitigate the circumstances raised on account of the sudden death of an employee. Thus, efflux of time is a ground to draw a factual inference that the penurious circumstances aroused on account of the sudden death of the employee become vanished. Thus, the scheme of compassionate appointment cannot be extended after several years. The very purpose of the scheme is to mitigate the penurious circumstances and a long delay is also a ground for rejection of the claim.

4. In the present case, the application itself was submitted beyond the period of 3 years, which is in violation of terms and conditions stipulated under the scheme. The petitioner has submitted an application after a lapse of about 20 years from the date of death of the deceased employee, which was rejected by the respondent on the ground that the application itself was belated.



5. This being the reason, this Court do not find any infirmity as such in respect of the reasons stated in the impugned order for rejecting the claim. It is needless to state that the scheme of the compassionate appointment is to be extended to the beneficiaries strictly in accordance with the terms and conditions stipulated under the scheme. The claim of compassionate appointment is in violation of the Articles 14 and 16 of the Constitution of India. There is no process of selection, there is no merit assessment or assessment of eligibility or suitability and merely based on the death of an employee, appointment is made which is otherwise hitting the principles of equality in public employment. Therefore, the scheme is to be implemented by providing appointment only to the deserved families and it is not for providing one appointment to one family. This being the principles, the petitioner is not eligible for appointment on compassionate ground.

6. With these observations, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

mrm

To

1. The Commissioner,
Corporation of Chennai,
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No.61, Basin Bridge Road,
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+1cc to Mr.S.Pushpakaran, Advocate SR.No.36541

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SKM(CO)
GMY(01/07/2022)