



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 17539 of 2020

R.Vanitha

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Home Secretary to the Government,
Secretariat, Chennai -600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai Road,
Mylapore, Chennai
TamilNadu - 600 004.
3. The Commissioner of Police,
Huzur Road, Coimbatore,
Tamil Nadu - 641 018.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd Respondents in respect of the impugned order bearing No.Na.Ka.Enn.01/9474/2018 dated 19.03.2020 and to quash the same as unconstitutional and contrary to law and facts consequently to consider the Petitioner's requisition dated 13.01.2014 and its due compliance in accordance with law and to pass such further or other orders as this Honble Court.

For Petitioner : Mr.P. Paul Selvam

For Respondent : Mr.M.Bindran, AGP

ORDER

The prayer in the writ petition is to call for the records of the 3rd Respondents in respect of the impugned order bearing No.Na.Ka.Enn.01/9474/2018 dated 19.03.2020 and to quash the same as unconstitutional and contrary to law and facts consequently to consider the Petitioner's requisition dated 13.01.2014 and its due compliance in accordance with law and to pass such further or other orders as this Honble Court.



2. The case of the petitioner is that the petitioner's father who worked as Grade -II Police Constable in B-9 Saravanampatty Law & Order Police Station, Coimbatore City died on 30.06.2004 while in service. After the death of her father, the petitioner's brother namely R.Satish had approached the respondent for compassionate appointment and his name was included in the list of candidates maintaining from the year 2007. Suddenly, the petitioner's brother died on 03.12.2013 before getting appointment. Thereafter, the petitioner has made representation to the respondent on 13.01.20214 to consider for compassionate appointment in respect of pre-mature demise of her brother, whose name was maintaining in the waiting list candidates. The petitioner has also submitted additional documents as required by the respondents, but without considering the same, the 3rd respondent had passed impugned rejection order on the ground that the petitioner had made application after three years. Challenging the same, the present writ petition is filed.

3. According to the learned counsel for the petitioner, the petitioner has made his application immediately after the demise of his brother and the authorities ought to have considered that the petitioner's brother was empaneled on the waiting list and despite the demise of her father on 30.06.2004 his brother was not given any employment till he expired on 03.12.2013.

4. Counter affidavit has been filed by the respondent, wherein it is stated that the petitioner's brother was not appointed to any Government service and his name was included only in the waiting list. Further the petitioner's application dated 09.10.2017 to the 2nd respondent has been forwarded to the 3rd respondent for necessary action and based on the communication from the 2nd respondent dated 28.01.2020 and 11.03.2020, the request of the petitioner was rejected in pursuance of the guidelines issued in G.O. No. 120, Labour and Employment Dept., dated 26.06.1995 on the ground that the petitioner has not submitted application within three years from the date of death of government employee. Therefore, the contention of the learned counsel for the petitioner cannot be accepted and the same is liable to be rejected.

5. Heard both sides and perused the materials available on record.

6. A perusal of records reveal that the petitioner has not disclosed the date of application that said to have been submitted within three years period and the petitioner has also not taken a specific stand in the affidavit that she had submitted her application within three years period. Admittedly



the petitioner's father died on 30.06.2004 and the petitioner had requested for appointment on compassionate grounds on 09.10.2017 i.e after a lapse of 13 years. The object of the scheme is only to provide employment to the deceased employee's family to meet financial assistant. The petitioner survived financially for more than 17 years as of now, therefore this Court cannot entertain the grounds raised by the learned counsel for the petitioner.

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) [in the said Judgment, myself (DKKJ) is one of the member] and the Division Bench, 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:

"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.



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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 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 father died on 30.04.2004 and the petitioner had submitted application for compassionate appointment only on 09.10.2017, nearly after thirteen years. Therefore, in view of the above settled legal position, the claim of the petitioner is beyond the prescribed period of three years, therefore the same cannot be entertained and deserves to be rejected in view of the judgments of the Hon'ble Supreme Court and this Court cited supra. Accordingly, the impugned order does not warrant any interference of this Court.



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

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Home Secretary to the Government,
Secretariat,
Chennai -600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai Road,
Mylapore, Chennai
TamilNadu - 600 004.
3. The Commissioner of Police,
Huzur Road, Coimbatore,
Tamil Nadu - 641 018.

+1cc to Mr.P.Paul Selvam, Advocate, S.R.No.19713

+1cc to the Government Pleader, S.R.No.20350

W.P.No. 17539 of 2020

SSV(CO)
SU(02/05/2022)