



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.18835 OF 2014

AND

W.M.P.NO.15770 OF 2016

M.Elankumaran

... Petitioner

Vs.

1. Government of Tamil Nadu represented by
Secretary to Government,
Cooperation, Food & Consumer Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar of Coop. Societies,
170 Periyar EVR High Road,
Kilpauk,
Chennai - 600 010.
3. The Joint Registrar of Coop. Societies,
Namakkal.
4. The Deputy Registrar of Coop. Societies,
Namakkal.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent in Na.Ka.No.4826/2010/Pa.Tho dated 19.02.2014, quash the same and consequently direct the respondents herein to consider the qualification and eligibility of the petitioner for appointment in the Department on compassionate ground and to pass appropriate orders of appointment to any posts commensurate with his eligibiltiy.

For Petitioner	:	Mr.B.Thennarasu
		For Mr.M.Ravi
For Respondents	:	Ms.S.Anitha
		Special Government Pleader



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 petitioner states that his father Thiru.P.Muthuraj was working as Senior Inspector of Cooperative Societies and died on 17.05.1997, while he was in service. During the relevant point of time, the petitioner was a minor and therefore, not eligible to submit an application seeking appointment on compassionate ground.

3. The learned counsel for the petitioner made a submission that the mother of the writ petitioner submitted an application immediately after the death of his father. However, the said application was not considered. The copy of the representation submitted by the mother dated 10.04.2000 is enclosed at page No.4 of the typedset of papers.

4. Perusal of the said representation reveals that it was not submitted in the prescribed format nor any acknowledgment has been enclosed. Mere copy of the representation submitted in the year 2000, which was not acknowledged by the respondents cannot be addressed upon by this Court for the purpose of considering the claim of the writ petitioner for Compassionate Appointment.

5. That apart, the mother of the writ petitioner has not pursued the application for appointment. Contrarily, the writ petitioner submitted an application seeking compassionate appointment in the 2010, after a lapse of about 13 years from the date of death of the deceased Government employee.

6. The scheme of compassionate appointment is in violation of Articles 14 and 16 of the Constitution of India. Scheme being a concession, cannot be claimed as a matter of an absolute right. Thus, the scheme is to be implemented strictly in accordance with terms and conditions. In the event of large scale appointment on compassionate ground, the same would result in infringement of the Constitutional rights of all the eligible persons, who all are aspiring to secure public employment under the Constitutional scheme and through open competitive process. Thus, the scheme of compassionate appointment is to be restricted, so as to provide appointment only to the genuine family, where, there is a penurious circumstances on account of the sudden death of the Government employee. Thus, the genuinity of the claim is to be ascertained by the competent authority by conducting field enquiry / inspection. The very object and



purpose of the scheme is to mitigate the circumstances arising on account of the sudden death of the Government employee and therefore, the purpose and object is to be considered, while granting appointment on compassionate ground. It is not as if one employment is to be provided to the family of the deceased persons.

7. In the present case, the employee died in the year 1997 and the mother of the writ petitioner submitted an application in the year 2000, which was not pursued. The writ petitioner submitted an application in the year 2010 and the application was rejected in the year 2014 on the ground that the petitioner submitted the application beyond the period of 3 years.

8. Thus, this Court is of the considered opinion that efflux of time is also a ground to draw a factual inference that penurious circumstances aroused on account of the sudden death of the employee became vanished. Thus, laches of time is also a ground to reject the claim for compassionate appointment. This being the principles to be followed, this Court is of the opinion that now after a lapse of about 25 years from the date of the death of the deceased employee, the claim of the writ petitioner for compassionate appointment cannot be considered and there is no infirmity as such in respect of the order impugned passed.

9. Accordingly, the Writ Petition stands dismissed. No costs. Consequently the Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Jeni/Kak

To

1. The Secretary to Government,
Government of Tamil Nadu
Cooperation, Food & Consumer Protection Department,
Secretariat, Chennai - 600 009.
2. The Registrar of Coop. Societies,
170 Periyar EVR High Road,
Kilpauk,
Chennai - 600 010.



3. The Joint Registrar of Coop. Societies,
Namakkal.

4. The Deputy Registrar of Coop. Societies,
Namakkal.

+1cc to M/s.M.Ravi, Advocate, S.R.No.37397

+1cc to the Government Pleader, S.R.No.37666

W.P.No.18835 of 2014

AJB (CO)
RLP (08/07/2022)