

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.18965 of 2014

A.Pandurangan

...Petitioner

Vs.

1. The Secretary to Government
Public Works Department
Fort. St. George,
Chennai - 600 009.
2. Engineer in Chief W.R.O &
Chief Engineer (General), P.W.D
Chepauk,
Chennai - 600 005.
3. Superintending Engineer, PWD
Thamiraparani Division,
Palaiyamkottai,
Thirunelveli District.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st and 2nd respondent to appoint the petitioner on compassionate grounds in any suitable post based on his qualification.

For Petitioner : Mr.M.Diwakar
For M/s. Malarvizhi Udayakumar

For Respondents : Ms.S.Anitha
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to appoint the writ petitioner on compassionate grounds in any suitable post

2.The petitioner states that his father was employed as Lascar Cittaru Section, Tenkasi and his services were provincialised. The father of the writ petitioner died on 02.07.1975 and at the time of the death of the father of the the writ petitioner, the petitioner was aged about 9 years. Thus, the petitioner was not eligible to seek appointment on compassionate ground. The petitioner states that on attaining the age of majority, he submitted an application seeking appointment on compassionate ground. The said application was not considered. Again, the petitioner sent representations on 03.02.2010 and 09.02.2011.

3.The learned counsel for the petitioner made a submission that the case of the writ petitioner was recommended. However, the appointment order has not been issued. Thus, the petitioner is constrained to move the present writ petition.

4.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.

5.The fact remains that the father of the writ petitioner died in the year 1975 and the application was not submitted within a period of 3 years. Furthermore, the writ petition was filed in the year 2014, after a lapse of about 39 years from the date of death of deceased employee. 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.

6.This being the factum, the petitioner is not entitled for any relief as such sought for in the present writ petition and accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Jeni/Kak

To

1. The Secretary to Government
Public Works Department
Fort. St. George,
Chennai - 600 009.
2. Engineer in Chief W.R.O &
Chief Engineer (General), P.W.D
Chepauk,
Chennai - 600 005.
3. Superintending Engineer, PWD
Thamiraparani Division,
Palaiyamkottai,
Thirunelveli District.

+1cc to the Government Pleader, S.R.No.37667

W.P.No.18965 of 2014

SKM(CO)
RGA(11/07/2022)