



W.P.No.5688 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5688 of 2017

B.Sriraman

...Petitioner

Vs.

1.The Chairman cum Managing Director,
The New India Assurance Company Ltd.,
No.87, M.G.Road,
Mumbai – 460 001.

2.The Administrative Officer,
The New India Assurance Company Ltd.,
Regional Office 72 00 00,
“Obli Towers”, 594, D.B.Road,
R.S.Puram,
Coimbatore – 641 002.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India,
to issue a Writ of Mandamus, directing the respondents to give appointment
to the petitioner on compassionate ground by considering the petitioner's
representation dated 11.8.2011.

For Petitioner : Ms.M.Rakhi
For M/s.G.Thalaimutharasu

For R1 and R2 : Mr.A.S.Gunasekaran



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ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to provide appointment to the petitioner on compassionate ground by considering the petitioner's representation dated 11.8.2011.

2. The petitioner states that his father Mr.M.Balakrishnan was serving as Assistant Manager in the respondent-M/s.New India Assurance Company Limited. The father of the petitioner died on 11.05.2011, while he was in service. The petitioner submitted an application on 11.08.2011, seeking appointment. However, the said application was not considered and therefore, the petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner mainly contended that the petitioner's family was facing difficulties on account of the sudden death of the father of the petitioner and the application was also submitted in time. However, the respondents have not considered the same without any valid reason.

4. The learned counsel for the respondents opposed the said



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contention by stating that no scheme for compassionate appointment was in existence during the relevant period from the year 2002 to 2014. The Insurance Companies were considering the cases for payment of compensation in lieu of compassionate appointment. Since there was no scheme for compassionate appointment in force, the case of the petitioner was not considered.

5. This Court is of the considered opinion that the compassionate appointment cannot be claimed as a matter of right. Only in the presence of scheme, the application is to be considered. When there is no scheme for compassionate appointment as far as the 2nd respondent-M/s.New India Assurance Company Limited is concerned, the question of considering the application would not arise at all. However, the case of the writ petitioner is to be considered for grant of compensation in lieu of compassionate appointment, which was prevailing during the relevant point of time.

6. In this regard, the petitioner is at liberty to submit an application



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based on the scheme, which was prevailing at the time of the death of the deceased employee and if at all any such application is submitted by the writ petitioner, the same is directed to be considered by the respondents on merits and in accordance with the terms and conditions of the scheme.

7. With this liberty, the writ petition stands disposed of. No costs.

10.10.2022

Index : Yes
Speaking order: Yes
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To

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S.M.SUBRAMANIAM, J.

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