



W.P.No.5919 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5919 of 2017

S.Udayakumar

...Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai – 600 003.

2.The Assistant Executive Engineer,
Zone 5, Division 13,
Corporation of Chennai,
No.28, Sevenwells Road,
Chennai – 600 001.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, direct the respondents to provide the employment to the petitioner in the office of respondents on compassionate ground of his deceased father N.Bhasker.



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For Petitioner : Mr.D.T.Janardhanon
For R1 and R2 : Mr.G.T.Subramanian
Standing counsel
(For Greater Chennai Corporation)

ORDER

The relief sought for in the present writ petition is to direct the respondents to provide employment to the writ petitioner on compassionate grounds.

2. The petitioner states that one Mr.N.Bhaskar was employed in Chennai Corporation, Zone-2, Ward-25. He was a Bachelor and he adopted the petitioner as his son. The petitioner was adopted at the age of 14 years by the deceased employee Mr.N.Bhaskar. The deed of adoption was registered on 15.09.2008. Subsequently after the adoption, the petitioner states that he was residing with the deceased employee Mr.N.Bhaskar, who was deceased intestate on 17.08.2011. The parents of the deceased Mr.N.Bhaskar was also predeceased him. The petitioner states that he being the adopted son of deceased Mr.N.Bhaskar, filed an Original Petition in O.P.No.339 of 2013 before the High Court of Madras for issuance of Succession certificate, which was issued in order dated 05.05.2015.



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Pursuant to the Succession certificate issued by the High Court on 05.05.2015, the petitioner submitted all the relevant documents and requested the authorities to provide appointment on compassionate grounds. But the said application was not considered.

3. The learned counsel for the petitioner states that the deceased employee died on 17.08.2011 and the petitioner submitted an application on 28.07.2014 within a period of three years from the date of death of the deceased employee. However, there was a delay in pursuing the application since the petitioner filed O.P in the year 2013 and pursuant to the Succession Certificate issued on 05.05.2015, again the petitioner submitted an application seeking appointment on compassionate grounds.

4. The learned counsel for the petitioner strenuously contended that the petitioner is an adopted son of the deceased employee. To prove the adoption, he filed O.P.No.339 of 2013 and a Succession Certificate was issued by this Court on 05.05.2015. Thus, the petitioner is eligible for appointment on compassionate grounds. That apart, the deceased employee



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has no other legal heirs and therefore, the case of the writ petitioner is to be considered.

5. The learned counsel for the respondents objected the said contention by stating that the adoption itself was not established by the petitioner since he was said to be adopted at the age of 14 years by the deceased employee, who was a Bachelor. That apart, within a period of 3 years from the date of adoption, the adopted father died. The circumstances also created a doubt regarding the genuinity of the adoption made by the deceased employee. However, the Succession certificate was issued by the High Court on 05.05.2015. By that time, the period of three years also lapsed. Thus, the application, which was submitted incompletely in the year 2014 was not considered by the respondents. At the time of submission of application in the year 2014, the adoption was not established and the Succession certificate was issued in the year 2015 and the subsequent application was considered by the authorities and by that time, the period of three years lapsed.



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6. This Court is of the considered opinion that the purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arising on account of the sudden death of an employee. The deceased employee admittedly was a Bachelor. His parents predeceased him. Therefore, there was no Class 1 Legal Heir as far as the deceased employee is concerned. Thus, the question of indigency of the family of the deceased employee did not arise at all. Under those circumstances, the brother's son of the deceased employee made an attempt to get the benefits of the deceased employee, since he was a Bachelor. The deed of adoption was registered in the year 2008 and within a short span of about 3 years, the employee died. Therefore, the adoption itself is to be considered for the purpose of getting the benefits of the deceased employee.

7. The adoption made at the age of 14 years itself raises several questions. Though the Succession Certificate was issued by the High Court in O.P.No.339 of 2013, the said certificate issued in the year 2015 cannot be of any avail to the petitioner for the purpose of seeking appointment on



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compassionate grounds. That apart, the Original Petition was filed, adding the biological parents of the petitioner as respondents. Under those circumstances, this Court cannot form an opinion that the legal heirs of the deceased employee was in indigent circumstances. The deceased employee had no Class 1 Legal Heirs at the time of his death. Therefore, the concept of indigent circumstances of the family does not arise at all. When the deceased employee had no family at the time of his death and the adoption was established after the death of the deceased employee, the indigency or providing appointment to the legal heir did not arise and thus, the scheme of compassionate appointment cannot be extended in favour of the writ petitioner.

8. The scheme is not to provide appointment to the legal heirs of the deceased employee. The genuinity regarding the penurious circumstances of the family of the deceased employee is to be established. When the deceased employee was a Bachelor and had no other Class 1 Legal Heirs, question of considering the case of the writ petitioner at this length of time does not arise at all.



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9. The learned counsel for the petitioner relied on the letter sent by the Zonal Officer, Zone-V, Corporation of Chennai dated 03.09.2014, where it is stated that there is a proposal to consider the case of the writ petitioner. However, the Zonal Officer is not the final authority for taking a decision to provide appointment on compassionate ground.

10. The learned counsel for the respondents made a submission that a letter was not properly worded by the Zonal Officer in this regard. The Commissioner, Chennai Corporation has to issue proper instructions to the authorities, not to provide any such false promises or otherwise by way of letter even before considering the cases for providing appointment on compassionate grounds. Such letters with certain assurances are providing undue advantage to the applicants, who all are otherwise not eligible for appointment on compassionate grounds.

11. In this regard, the Commissioner, Chennai Corporation, has to seek explanation from the Zonal Manager concerned for the purpose of



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ascertaining the reason for giving such letter.

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12. In view of the facts and circumstances, this Court is not inclined to consider the relief as such sought for in the present writ petition.

13. Accordingly, the writ petition stands dismissed. No costs.

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Index : Yes
Speaking order: Yes
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S.M.SUBRAMANIAM, J.

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