



W.P.No.28409 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28409 of 2018

A.Nivitha

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai – 600 005.

2.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Memorandum Na.Ka.No.A6/7150/2018 dated 08.05.2018 of the 1st respondent and quash the same and consequently direct the 1st respondent to give compassionate appointment to the petitioner, within a reasonable time as may be prescribed by this Court.



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For Petitioner : Mr.A.E.Ravichandran
For Respondents : Mr.S.Karthikeyan
for Slum Clearance Board

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 father of the writ petitioner Late.A.Amuthan was working as Junior Engineer in the office of the 2nd respondent and died on 05.12.2012, while he was in service. The learned counsel for the petitioner made a submission that the mother of the writ petitioner initially submitted an application on 10.06.2013, to provide appointment on compassionate ground to her second daughter, who was aged about 16 years, Since the authorities have not considered the said application, again the petitioner's mother submitted an application on 10.07.2017, to provide appointment to her daughter/petitioner. The petitioner attained the age of majority when the second application was submitted on 10.07.2017. The said application was rejected by the respondents on the ground that the application was submitted



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beyond the period of three years and therefore, as per terms and conditions of the scheme of compassionate appointment, it cannot be entertained.

3.The learned counsel for the petitioner mainly contended that the 1st application was submitted on 10.06.2013, within a period of three years from the date of the death of the deceased employee and the said application was not considered. Therefore, the order of rejection is infirm.

4.The learned counsel appearing on behalf of the respondents objected the said contention by stating that the 1st representation said to have been submitted by the petitioner dated 10.06.2013 had not been received by the respondent Board. It is relevant to extract the statement made by the Secretary, Tamil Nadu Slum Clearance Board in this regard, which is in Paragraph No.4 of the counter affidavit:

A.Amuthan was working as Junior Engineer in Tamil Nadu Slum Clearance Board and he expired on 05.12.2012, while in service. His wife N.Nirmala submitted a representation requesting employment on compassionate ground for her second daughter on



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12.07.2017 after more than four years he died. The averment that the mother of petitioner gave a representation dated 10.06.2013 to the 1st respondent in person to give appointment to the petitioner after completion of her B.E. Degree Course, which she intend to pursue, the same was submitted within the stipulated time of three years and the same was recorded by the respondents are denied as false and concocted. Neither the petitioner nor her mother submitted any representation dated 10.06.2013. The petitioner is put to strict proof of the same. The petitioner has not produced any acknowledgement from the respondent for submission of such representation within three years of time frame.

5.The representation submitted by the writ petitioner dated 10.06.2013, is enclosed in Page 6 of the typed set of papers filed along with the writ petition. It is a hand written representation which is not in a prescribed format. Application to seek appointment on compassionate ground is to be submitted in a prescribed format along with all required documents. However, the said representation dated 10.06.2013, is a five line hand written representation not supported with any document. Even, the petitioner had not submitted the acknowledgment regarding the proof of service. In the absence of any proof to establish that the respondents received the said application, the sanctity cannot be trusted upon for the purpose



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of considering such representation. The said representation was not referred by the respondents in any of the proceedings. In the counter affidavit filed by the respondents it is stated that they have not received any such representation dated 10.06.2013. This being the factum, this Court do not find any infirmity in respect of the reasons stated in the order impugned with reference to the subsequent application submitted by the writ petitioner on 10.07.2017.

6.Application seeking compassionate appointment is an important document, since the period of limitation is stipulated in the scheme. Thus, the applicant has to establish that the application in the prescribed format along with documents were submitted to the competent authorities, within a period of three years as stipulated in the scheme. In the absence of any document to establish the receipt of such application, the Court would not be in a position to consider the mere representation sent without any proof or otherwise.

7.Beyond all, the father of the writ petitioner died in the year 2012 and ten years lapsed. The application dated 10.07.2017 was received by the respondents and the said application was disposed of by stating that it was not submitted within



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a period of three years and therefore, the claim of the writ petitioner cannot be considered at all. In view of the facts and circumstances, the petitioner has not established any acceptable grounds for the purpose of considering the relief.

8. Accordingly, this writ petition stands dismissed. No Costs.

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Index : Yes
Internet : Yes
Speaking order : Yes
ssr



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S.M.SUBRAMANIAM, J.

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