



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.3025 of 2021

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K.Sridhar

... Petitioner

Vs.

- 1.The Secretary,
Department of School Education,
Chennai-600 009.
- 2.Under Secretary to Government,
Labour and Employment Department,
Government of Tamil Nadu,
Secretariat,
Chennai-600 009.
- 3.The Chief Educational Officer,
Office of the C.E.O.,
Collectorate,
Virudhunagar-626 003.
- 4.The District Educational Officer,
Office of the C.E.O.,
Collectorate,
Virudhunagar-626 003.
- 5.The Block Educational Officer,
Office of the C.E.O., Collectorate,
Virudhunagar-626 003.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected to the impugned order passed by the 3rd respondent in his proceedings in O.Mu.No.5870/A1/2020 dated 20.11.2020 and quash the same as illegal and arbitrary and consequently, direct the respondents to consider the petitioner's representation for appointment on compassionate ground within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.Benazir Begum

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader



ORDER

The order impugned dated 20.11.2020 rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

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2.The father of the writ petitioner Mr.A.Kannan was working as Headmaster in Panchayat Union Primary School and died on 18.02.2001, while he was in service. The mother of the petitioner has not submitted any application for compassionate appointment. The elder brother of the petitioner Mr.Venkatesan, submitted an application seeking appointment on compassionate ground on 18.02.2003.

3.The learned Additional Government Pleader appearing for the respondents made a submission that the said application was processed and on three occasions, the Department Officials called the elder brother of the petitioner to submit his certificates for verification. However, he has not turned down and not pursued the application for appointment on compassionate ground.

4.After a lapse of about 14 years from the date of death of the deceased employee, the writ petitioner, who is the second son of the deceased employee filed an application on 21.06.2015 for providing appointment on compassionate ground. The said application was rejected. Thus, the petitioner has filed the present writ petition.

5.The learned counsel for the petitioner made a submission that the application submitted by the elder brother of the petitioner was not considered immediately and it was kept pending for a long years and the case of the petitioner is to be considered based on the old scheme of compassionate appointment. Therefore, the petitioner is eligible for compassionate appointment and the impugned order is to be set aside.

6.This Court is of the opinion that long delay in submitting the application is to draw the factual inference that the penurious circumstances arose on account of the sudden death of the employee became vanished. The very purpose and object of the scheme to mitigate the circumstances arising on account of sudden death of the employee and certainly not to provide one appointment to one family member of the deceased employee. The compassionate appointment is in violation of Articles 14 and 16 of the Constitution of India, no selection process has been undertaken, no suitability or eligibility are tested. Thus, the appointment on compassionate ground is to be restricted, as it will cause infringement of right of all eligible persons, who are all aspiring to secure public employment through upon competent process.

7.Therefore, any such application on the scheme of compassionate appointment submitted immediately and the deserving



families are to be provided with an opportunity of appointment. Contrarily, the application submitted beyond the period of three years or the only one legal heir submitted an application, who has not pursued the application and thereafter, another legal heir filed an application seeking appointment cannot be considered at all.

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8.The learned Additional Government Pleader appearing for the respondents brought to the notice of this Court that the elder brother of the petitioner possessed M.Sc., B.Ed., and working as a Teacher and therefore, he has not pursued the application. The petitioner, who was a minor during the relevant point of time, submitted an application in the year 2015. After a lapse of about 14 years from the date of the death.

9.This being the factum, the order of rejection is well within the terms and conditions of the scheme of compassionate appointment then there is no infirmity as such. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Deputy Registrar (LA&MC)

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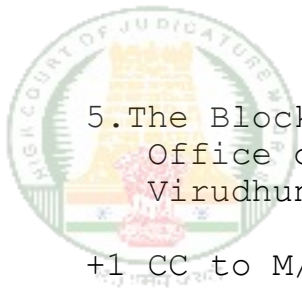
/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Secretary,
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5.The Block Educational Officer,
Office of the C.E.O., Collectorate,
Virudhunagar-626 003.

+1 CC to M/s.SPL GP (SR-9445[F] dated 02/03/2022)

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01.03.2022

RD(16.03.2022) 4P 7C