



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.9852 of 2021

WEB COPY

K.Gayatri

... Petitioner

vs.

The Principal Secretary
Department of Health and Family Welfare
Government of Tamil Nadu
Secretariat, Fort St.George, Chennai-600 009

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondent to grant appointment on compassionate grounds to the petitioner by considering her representations dated 30.05.2011, 26.06.2019 and 3rd representation dated 14.10.2020.

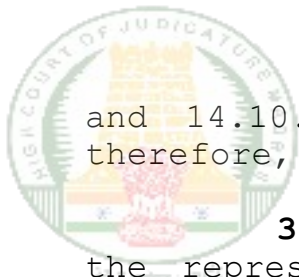
For Petitioner : Mr.Sanjey Vignesh.J.

For Respondent : Mr.M.Ramesh, Government Advocate

O R D E R

The relief sought for in this writ petition is to direct the respondent to consider the petitioner's representations, dated 30.05.2011, 26.06.2019 and 14.10.2020.

2. The petitioner states that her mother K.Subbulakshmi was working as Pharmacist in the Government Hospital at Palladam and died on 03.03.2009, while she was in service. The petitioner was minor during the relevant point of time and her father is an agricultural coolie and illiterate and therefore, the petitioner's father did not make any request for compassionate appointment. However, a representation was submitted in the year 2011 by the petitioner seeking compassionate appointment. The said representation enclosed in Page No.10 of the typed set of papers reveals that it is not in the prescribed format, contrarily, it was given to the Joint Registrar of Health Services to provide appointment on compassionate grounds. The said representation was not considered. Moreover, during the relevant point of time, the petitioner was a minor and her father had not submitted any application for providing appointment on compassionate grounds to him. A minor cannot be appointed in a Government service. Thus, the said application submitted during 2011 may not be relevant as far as the petitioner is concerned. On attaining the age of majority, the petitioner submitted representations on 26.06.2019



and 14.10.2020. However, by that time, ten years lapsed and therefore, the Authority competent has not considered the same.

3. This Court is of the opinion that directions to consider the representation cannot be granted in a routine manner. The rights of the parties are to be crystallized for the purpose of granting such directions. In the present case, the mother of the petitioner, who was employed as Pharmacist, died on 03.03.2009. The application submitted in the year 2011 was not considered by the respondent as the petitioner was minor during the relevant point of time. The husband of the deceased employee was also not interested in submitting application for appointment to him. Thus, the applications submitted in the year 2019 and 2020 cannot be directed to be considered in view of the fact that on the date of submission of applications ten years lapsed. The husband of the deceased employee was not in a position to pursue application for compassionate appointment in view of the fact that he was overaged even during the relevant point of time. In view of all these facts, if any direction is given to the respondent to consider the representations of the petitioner, it would serve no purpose and would not do any service to the cause of justice. Mechanical direction by the High Courts to consider the representations is not desirable as the rights of the parties are to be considered at all circumstances in order to give quietus to the dispute. Contrarily, such directions will result in multiplicity of proceedings causing unnecessary hardship to the litigants for the purpose of approaching the High Courts repeatedly.

4. In the present case, the employee died in the year 2009, the husband of the employee was not qualified as he was overaged and the petitioner, who is the daughter of the deceased employee, was minor during the relevant point of time and by the time she attaining the age of majority, ten years lapsed and applications cannot be entertained after a period of three years from the date of death of the deceased employee as per the conditions of scheme of compassionate appointment. Under those circumstances, this Court is not inclined to grant the relief as such sought for in this writ petition.

5. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

krk

<https://hcservices.ecourts.gov.in/hcservices/>



To:

The Principal Secretary,
Department of Health and Family Welfare,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.

+1 CC to M/s.SPL GP (SR-10185[F] dated 04/03/2022)

+1 CC to M/s.J.SANJAY VIGNESH, Advocate (SR-10431[F] dated
07/03/2022)

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RD(15.03.2022) 3P 4C