



W.P.(MD).No.785 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.785 of 2019

G.Gokul

... Petitioner

Vs.

The District Collector,
Madurai District,
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent i.e., the District Collector, Madurai relating to his g.K.vz;.17987/2013/\$p1 ehs; : 04.12.2018 and quash the same and consequently direct the respondent i.e., the District Collector, Madurai to appoint the petitioner on compassionate grounds considering the qualification obtained by the petitioner, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.P.Thambi Durai,
Government Advocate.



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ORDER

This Writ Petition is filed to quash the impugned order dated 04.12.2018 with a consequential relief to grant compassionate appointment.

2. The brief facts of the case are that the petitioner's father was serving as Village Administrative Officer. While he was in service, he suddenly died on 23.03.2011. The deceased employee had served in the Department for more than 25 years. At the time his demise, the petitioner age was 14 years 8 months and 14 days. Therefore, the petitioner's mother applied for compassionate appointment vide letter dated 25.03.2013 seeking compassionate appointment to the petitioner and the same was rejected vide order dated 04.12.2018 stating that the petitioner was a minor at the time of death of his father and hence minor children cannot be granted any appointment under compassionate ground. After attaining majority, the petitioner submitted representation dated 17.12.2018 to the respondent for compassionate appointment. The contention of the petitioner is that he had attained majority on 14.07.2016 and had submitted an application within three years from the date of attaining majority.



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The three years period would be on or before 13.07.2019 and the petitioner had submitted an application on 17.12.2018. Since the petitioner has submitted a representation for compassionate appointment within a period of 3 years from the date of attaining majority that is on 17.12.2018, the petitioner is seeking compassionate appointment.

3. The respondent filed a counter stating that the petitioner is not entitled to, since as per the scheme, the family is entitled to compassionate appointment within 3 years from the date of death of the employee to tide over the sudden financial crisis of the family. However, the petitioner's mother did not apply for her, but the petitioner's mother applied for compassionate appointment to her son, when he was minor. Hence, the petitioner was not entitled to and prayed to dismiss this Writ Petition.

4. Heard Mr.S.Visvalingam, learned counsel for the petitioner and Mr.P.Thambi Durai, learned Government Advocate for the respondent.



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5. The issue of granting compassionate appointment was referred to the Hon'ble Full Bench of this Court by framing the following question for reference:

"Whether the view taken in A.Kamatchi's case holding that an application for compassionate appointment made even beyond three years of the death of the deceased needs consideration, is the correct law or the judgment of the Division Bench in N.Renugadevi's case, where a contradictory view has been taken, is the correct law?"

The Hon'ble Full Bench of this Court in *W.P. (MD) Nos.7016 of 2011 and batch vide judgment dated 11.03.2020* has considered all the previous judgments and discussed in detail after taking note of various Government orders / guidelines issued in relation to compassionate appointment. The scope of application submitted by minors attaining majority and other issues were considered by the Hon'ble Full Bench and has held that the three years period ought to be taken from the date of death of the deceased employee and it cannot be calculated from the date of attaining majority. Following the Hon'ble Full Bench judgment, the Hon'ble Division Bench had passed orders in *W.A.(MD) No.682 of 2022 in the case of V.Deepika Vs. the District Collector and others*, *W.A.(MD) No.457 of 2022 in the case of P.Babyshalini Vs. the Principal Secretary and others* and *W.A.(MD) No.769 of 2022 in the case of*



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K.Nambirajan Vs. Divisional Engineer and others, wherein, the claim of the legal heirs was rejected and held that the application was submitted belatedly beyond the period of three years and the three years period ought to be calculated from the date of death of the Government servant. Any claim beyond the scheme of compassionate appointment cannot be entertained.

6. The object and purpose of the compassionate appointment is to provide immediate financial assistance to the family of the deceased Government servant, so as to protect them against any form of indigent circumstances because of the death of the sole bread winner of the family. The Hon'ble Supreme Court has taken a consistent view that the family members of the deceased employee should not be considered for appointment on compassionate basis beyond the period fixed under the scheme. The Hon'ble Supreme Court in the case of *Sanjay Kumar Vs. State of Bihar*, reported in *(2000) 7 SCC 192*, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application filed by the dependent of the deceased employee after he attains majority cannot be entertained. Considering the belated applications will be contrary to the scheme framed by the Government. It will also be contrary to the judgments



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of the Supreme Court. The Hon'ble Full Bench has held that the scheme does not permit entertaining an application by a dependent after attaining majority, hence the period of limitation ought to be considered from the date of death alone and not from the date of attaining majority.

7. Therefore, this Court following the judgment of the Hon'ble Full Bench and the principles laid down by the Hon'ble Supreme Court in several cases, is of the considered opinion that the petitioner's claim for compassionate appointment cannot be considered from the date of attaining majority, but it ought to be considered from the date of death of the deceased employee. Hence, the claim of the petitioner is rejected.

8. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes/ No
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To

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S.SRIMATHY, J.

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