



W.P.(MD).No.11927 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11927 of 2015

and

M.P.(MD).Nos.1 and 2 of 2015

P.Krishnaveni

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Social Welfare and Nutritious Meal Programme,
Fort St.George,
Chennai – 600 009.
- 2.The Director,
The Directorate of Social Welfare and Nutritious Scheme,
Chepauk,
Chennai.
- 3.The Director,
The Directorate of School Education,
College Road,
Chennai – 6.
- 4.The District Collector,
Viruthunagar District,
Viruthunagar.
- 5.The District Planning Officer,
Integrated Child Development Services,
Viruthunagar District,
Viruthunagar.



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6. The District Educational Officer,
District Educational Office,
Viruthunagar District,
Viruthunagar.

... Respondents

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 from the fifth and sixth respondents relating to the impugned orders passed in O.Mu.Na.Ka.No.2092/A1/2014 dated 09.12.2014 and A.Thi.Mu.No. 2034/A1/15 dated 25.06.2015 respectively, quash the same and consequently direct the respondents to provide the petitioner compassionate appointment either in the post of Laboratory Assistant or in any other suitable post, within a specified period as may be fixed by this Court.

(Prayer amended vide order dated 15.11.2022 in W.M.P.(MD).No.9106 of 2017 in W.P.(MD).No.11927 of 2015)

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.C.Baskaran,
Government Advocate.

ORDER

This Writ Petition is filed to quash the impugned order dated 09.12.2014 and dated 25.06.2015 and consequently direct the respondents to provide compassionate appointment in any one of the existing 710 vacancies in the post of Laboratory Assistant.



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2. Pending the Writ Petition, the petitioner had filed amendment petition whereby, the petitioner is seeking to amend the prayer to grant compassionate appointment either in the post of Lab Assistant or in any other suitable post. Today, when the matter is taken up for hearing, this Court allowed the said amendment petition.

3. The brief facts as stated in the affidavit are that the petitioner's mother namely, K.Kandammal died on 30.09.1996 while she was serving in the first respondent Office. The petitioner's mother was appointed as Children Welfare Organizer from 10.05.1978, thereafter, promoted as Nutrition Supervisor. While in service the petitioner's mother died due to illness leaving behind the petitioner's father and three daughters including the petitioner as legal heirs and the petitioner herein is the eldest daughter. The petitioner was 9 years old at the time of death of the petitioner's mother, hence she could not apply at the age of 9. After attaining majority, the petitioner submitted application seeking for compassionate appointment, but no response was evoked thereof. Aggrieved over, this petition is filed.



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4. The learned Government Advocate appearing for the respondents submitted that the petitioner has submitted an application seeking compassionate appointment and it was rejected on the ground that the application is beyond the period of three years limitation. Hence the petitioner's claim was rejected as belatedly application and therefore, the respondents prayed to dismiss this Writ Petition.

5. Heard Mr.S.Arunachalam, learned counsel for the petitioner and Mr.C.Baskaran, learned Government Advocate for the respondents.

6. The issue of compassionate appointment was referred to the 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 by judgment dated 11.03.2020* has considered all the previous judgments and discussed in detail after taking note of various Government



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order / guidelines in relation to compassionate appointment. The scope of belated application by minors attaining majority or other circumstances was considered and the Hon'ble Full Bench had categorically held that the three years period ought to be taken into account 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 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.

7. 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 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



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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 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.

8. 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 for three years period after she attains majority, but it ought to be considered from the date of death of the deceased employee. Hence, the claim of the petitioner is rejected.



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9. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

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(2/2)

Index : Yes / No
Internet : Yes/ No
Nsr

To

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S.SRIMATHY, J.

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