



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.21902 of 2021

M.Kannan

... Petitioner

-Vs-

1.The Secretary to Government,
Department of Municipal Administration and Water Supply,
Secretariat, Chennai - 9.

2.The Commissioner,
Dindigul Municipal Corporation,
Dindigul.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.5853/2016/H2 dated 20.10.2021 and quash the same and consequently direct the 2nd respondent to consider the claim of the petitioner for appointment on compassionate grounds in the basic service or any other suitable post based on his educational qualification with the 2nd respondent, within the time stipulated by this Court.

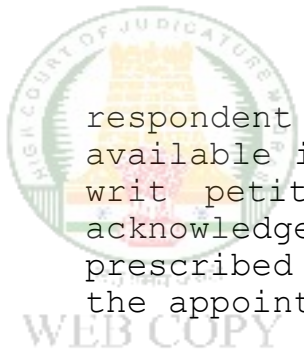
For Petitioner	: Mr.S.Govindan
For R1	: Mr.N.Satheesh Kumar, Additional Government Pleader
For R2	: Mr.J.Lawrance

ORDER

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment in proceedings dated 20.10.2021, is under challenge in the present Writ Petition.

2.The unmarried sister of the petitioner's father, i.e., Smt.Mariyammal, adopted the petitioner. The said Mariyammal was working with the 2nd respondent, Dindigul Municipal Corporation, Dindigul, as Sweeper, and died on 09.02.2021, while she was in service. The said Mariyammal filed a civil suit for declaration in O.S.No.814 of 2012, before the Additional District Munsif Court, Dindigul, to declare that the petitioner is her adopted son. During the pendency of the suit, the employee Mariammal died on 09.02.2013.

3.The learned counsel for the petitioner made a submission that soon after the death of the mother of the petitioner, he being an adopted son, submitted a representation on 03.04.2013 to the

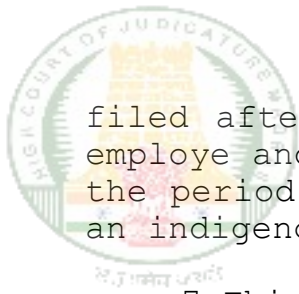


respondent to provide appointment. The said representation is available in page 8 of the typed set of papers filed along with the writ petition and there is no proof to establish that it was acknowledged. Further, the said representation is not in the prescribed format and a simple representation was given stating that the appointment is to be provided on compassionate ground.

4.The writ petitioner filed W.P(MD)No.10171 of 2018 and this Court passed an order considering the argument of the respondent Corporation that they have not received any such representation. Under those circumstances, this Court granted liberty to the petitioner to provide proof for such representation, enabling the authorities to consider. This Court held that there is no proof available on record as well as in the typed set of papers filed in that writ petition. However, the subsequent representation was made by the petitioner on 07.04.2017, which is beyond the period of three years, as contemplated under the scheme of compassionate appointment. Thus, this Court directed the petitioner to establish the representation submitted before the authorities by providing proof and directed the authorities to reconsider in the event of such proof.

5.The learned counsel for the respondents made a submission that the petitioner has not submitted any proof in respect of the said representation dated 03.04.2013. However, the representation submitted in the year 2017 cannot be considered, as it was submitted beyond the period of three years from the date of death of the deceased employee. In the absence of proof to establish that the application in the prescribed format was submitted within a period of three years, the authorities will not be in a position to consider the case of the petitioner for appointment. Perusal of the representation dated 03.04.2013 reveals that the six lines representation was given without enclosing any documents or other relevant records. Therefore, this Court is of the opinion that in the absence of any proof to establish the said application dated 03.04.2013, the genuinity cannot be trusted upon for the purpose of providing appointment on compassionate ground.

6.Appointment on compassionate ground being an employment is to be provided in accordance with the terms and conditions. It is not as if a mere representation would be sufficient to appoint a person in a public services. Once the scheme contemplates certain terms and conditions, the application must be in a proper format along with all other documents and in the present case, this Court passed an order providing an opportunity to the writ petitioner to establish the representation dated 03.04.2013 and the petitioner could not able to establish the proof of the same. Thus, the respondents again rejected the application by stating that the second application cannot be considered and the first application was not established along with the proof. This being the factum, the learned counsel for the respondents formed an opinion that the application itself is



filed after four years from the date of the death of the deceased employe and further, they have drawn a factual inference that beyond the period of three years it cannot be construed that the family is an indigenous circumstances.

7.This Court is of the considered opinion that the application must be submitted properly within a period of three years, as per the scheme, along with the documents. Though the petitioner says that he sent a representation, he could not able to establish that the said representation was acknowledged by the authorities. Further, the said representation was not in the prescribed format along with all other documents. This Court has granted an opportunity to the petitioner to establish the representation of the year 2013 and the petitioner could not able to establish and submitted an another application in the year 2017. This being the factum, this Court do not find any infirmity in respect of the reasonings given in the order impugned and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The Secretary to Government,
Department of Municipal Administration and Water Supply,
Secretariat, Chennai - 9.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-10490[F] dated 08/03/2022)

+1 CC to M/s.SPL GP (SR-10609[F] dated 08/03/2022)

W.P.(MD) No.21902 of 2021
07.03.2022

RS(21.03.2022) 3P-4C