



W.P.(MD).No.21643 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21643 of 2017

and

W.M.P.(MD).No.17918 of 2017

M.Siranjeevi

... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

2.The Zonal director,
Municipal Administration,
Madurai – 625 016.

3.The Commissioner,
Theni-Allinagaram Municipality,
Theni – 625 531.

... 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 in pursuant to the impugned order passed by the third respondent in his proceedings Na.Ka.No.2024/2016/C1 dated 03.05.2017 and quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate grounds in any one of the post in the third respondent Municipality by considering the petitioner's Educational Qualification.



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For Petitioner : Mr.R.R.Kannan

For R-1 and R-2 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

For R-3 : Mr.K.Hema Karthikeyan

ORDER

This Writ Petition is filed to quash the impugned order dated 03.05.2017 and consequently direct the respondents to provide employment to the petitioner on Compassionate ground in any one of the post in third respondent Municipality by considering the petitioner's educational qualification.

2. The brief facts as stated in the affidavit are that the petitioner's father namely late S.Murugan was employed as Water Tank Watchman in the third respondent Municipality. On 30.10.2002, the petitioner's father died leaving behind the petitioner's mother namely, Dhanalakshmi, the petitioner who is the first son and the petitioner's brother namely, Sanjeevi the second son. The petitioner's father was only a bread winner. After the demise of the petitioner's father, his mother submitted a representation dated 25.11.2002 within the prescribed time in person requesting to provide employment in anyone of the post on compassionate grounds. But the petitioner's age was about 8 years and his brother was aged about 6 years. Since there was no reply, the petitioner's mother again submitted another representation dated 10.01.2003. In the



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meanwhile, the petitioner attained majority and again he submitted another representation on 30.12.2013 through registered post to provide compassionate employment. The petitioner had completed B.E., Civil Engineering degree and his brother is also studying Engineering course. After completion of degree, the petitioner again submitted a representation dated 25.04.2016 and the third respondent forwarded to the first respondent through second respondent for considering the claim of the petitioner. Subsequently, the petitioner submitted reminder dated 17.04.2017. The third respondent vide impugned order dated 03.05.2017 rejected the application stating that the application is time barred and belated one. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a counter stating that the petitioner was minor at the time of death of his father. The respondents have not received any representation from the petitioner's mother either on 25.11.2002 or on 10.01.2003 as alleged by the petitioner. The petitioner had submitted application belatedly and hence it was rejected. Therefore, the respondents prayed to dismiss this Writ Petition.



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4. Heard Mr.R.R.Kannan, learned counsel for the petitioner and Mrs.D.Farjana Ghousia, learned Special Government Pleader for the first and second respondents and Mr.K.Hema Karthikeyan, learned counsel for the third respondent.

5. The primary contention of the petitioner is that the third respondent, the then Commissioner received the petitioner's representation and forwarded the same to the first respondent for consideration. However, the Commissioner, the third respondent herein has passed the impugned order without knowing that the petitioner's application was forwarded to the first respondent. This contention was refuted by the third respondent counsel by stating that the first respondent after receiving the communication from the third respondent had directed the third respondent to pass appropriate orders based on the existing Government Orders. Therefore, the subsequent Commissioner has passed the order based on the existing order and rejected the claim of the petitioner. The next contention is that the petitioner has submitted application within the period of 3 years after attaining majority, therefore, the same cannot be considered as belated application.



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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 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



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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 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.



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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 he 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.

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

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Index : Yes / No
Internet : Yes/ No
Nsr

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S.SRIMATHY, J.

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