



WEB COPY



W.P.No.363 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.363 of 2019

C.Balasubramaniyan

... Petitioner

Vs.

The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Uthamar Gandhi Street,
Nungambakkam,
Chennai - 600 034.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to the rejection order issued by the respondent vide his proceedings in Sae.Mu.Na.Ka.No.6654/2017/B.3 dated 06.07.2017 and quash the same with a consequential direction to the respondent to appoint the petitioner in their department on compassionate grounds within a stipulated time.

For Petitioner	: Ms.Sriranjini for Mr.T.P.Prabakaran
For Respondent	: Mr.S.Yashwanth Additional Government Pleader (HR & CE)



W.P.No.363 of 2019

ORDER

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The petitioner has filed this writ petition to quash the proceedings rejecting his application for compassionate appointment.

2. It is the case of the petitioner that his father was working as an Office Assistant in the respondent Department and he died in service on 21.05.1997. The petitioner's mother made an application for appointment on compassionate grounds within a period of three years. However, the respondent Department rejected the same on the ground that the petitioner was a minor. The petitioner's mother made an application on 02.02.2017 stating that her two daughters were already married and compassionate appointment could be provided to the petitioner. A further representation was given on 11.04.2017, which came to be rejected by the respondent in and by the impugned proceedings.

3. The case of the petitioner is that even as early as 30th March 2009, the petitioner after attaining employable age, made an application to the respondent. However, the respondent has not taken any action on the said representation and therefore, delay on the part of the respondent cannot be put against the petitioner.



W.P.No.363 of 2019

4. The respondent has filed a counter stating that the petitioner was aged about eight years when his father died. The petitioner was born on 24.11.1989 and he was not eligible for appointment on compassionate grounds, within a period of three years from the date of death of his father. Even otherwise, the petitioner completed +2 (HSC) in 2008, but his application for compassionate appointment was made only in 2017 after a lapse of ten years.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

6. The learned counsel for the petitioner would submit that the petitioner has given a representation on 30th March 2009, which is also enclosed in the typed set of papers and therefore, it is not as if the petitioner made an application only in 2017 and therefore, the case of the petitioner ought to be favourably considered.

7. Per contra, the learned Additional Government Pleader for the respondent would submit that there is no proof in support of the letter said to have been given by the petitioner on 30.03.2009 and in any event, in view of the ration laid down by the Hon'ble Division Bench of this Court in



W.P.No.363 of 2019

W.A(MD)No.682 of 2022 dated 08.07.2022, the relevant criteria is that the three years period should be reckoned from the date of death and not from the date when the minor attaining the age of majority.

8. Here admittedly in this case, the petitioner was a minor, when his father died and the application was not made within three years from the date of death of his father.

9. Therefore, following the ratio laid down by the Hon'ble Division Bench of this Court, the petitioner is not entitled to any relief. Consequently, this Writ Petition is dismissed. No costs.

15.06.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No
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To

The Commissioner,
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WEB COPY



W.P.No.363 of 2019

P.B.BALAJI, J.

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W.P.No.363 of 2019

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