



W.P.No.2992 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.2992 of 2020

S.Johnpal

... Petitioner

Vs.

1.The Director General of Police,
Mylapore,
Chennai-4.

2.The Commissioner of Police,
Greater Chennai,
Veppery,
Chennai-7.

3.The Additional Commissioner of Police,
Traffic Zone,
Veppery,
Chennai-7.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.Pa.Pi-3/Po/189/8037/2016 dated 06.12.2019 passed by the 3rd respondent and quash the same and consequently to direct the respondent to provide compassionate appointment to the petitioner.



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For Petitioner : Mr.T.Saravanan

For Respondents : Mr.M.Shahjahan,
Special Government Pleader

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ORDER

The petitioner has filed the above writ petition praying for Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.Pa.Pi-3/Po/189/8037/2016 dated 06.12.2019 passed by the 3rd respondent and quash the same and consequently to direct the respondent to provide compassionate appointment to the petitioner.

2. The learned counsel appearing for the petitioner submitted that the petitioner's father Sebastin was working as Grade I Head Constable in the traffic unit and during his employment he disappeared in the year 1996 from 30.04.1996 and by that time the petitioner was 8 years old. Since his father was not traced out even after 7 years his mother filed a case in O.S.No.6441/2004 on the file of the II Assistant City Civil Court, Chennai and thereby it was ordered on 14.06.2005 by declaring that his father Sebastin death as civil death. At the time of judgment the petitioner was minor (14 years) and he attained majority in the year 2009.



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3. The learned counsel further submitted that the petitioner's mother applied for pension as well as other concession including compassionate appointment and made a representation in the year 2005 for pension, death cum service benefits and compassionate appointment in the year 2005, except compassionate appointment other benefits were granted in the year 2007. He further submitted that the petitioner's mother was not even informed to apply for compassionate appointment to the respondent as stated at the time of his father's civil death granted by the II Assistant City Civil Court and at that time the petitioner was 15 years old and attained majority in the year 2008. Since there was no progress about his compassionate appointment from the respondent he made a representation on 30.09.2019 to the respondent as well as to the Chief Minister Grievance Cell. Hence the petitioner has come forward with the present writ petition.

4. Counter affidavit dated 01.07.2021 was filed by the third respondent. Mr.M.Shahjahan, the learned Special Government Pleader appearing for the respondents submitted that as per G.O.No.120, Labour & Employment Department dated 26.06.1995 and Government clarification in



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letter(Ms).No.86/Q.1/2010, Labour & Employment Department dated 04.05.2010, the request for compassionate appointment should be submitted within 3 years from the date of death of the Government Servant. In this case, the date of death of Thiru.Sebastine (Civil death) was taken into calculation as 14.06.2005 as ordered by the Court. Since the petitioner's mother submitted the request petition for compassionate appointment after three years and she was given endorsement that due to the reasons stated above, there is no rule provision for giving compassionate appointment in this office Endorsement Rc.No.Estt.3/Tr./189/8037/2016, dated 06.12.2019 and the petitioner's mother already been given similar endorsement on 13.04.2016 and 18.10.2019.

5. Heard both sides and perused the materials available on record.

6. In the instant case, though the petitioner's father was declared Civil death as early as on 14.06.2005 and the petitioner has attained majority in the year 2009, the application for compassionate appointment was submitted belatedly only after 7 years i.e., in the year 2016 and that too by the mother of the petitioner and not by the petitioner. As per G.O.No.120, Labour & Employment



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Department dated 26.06.1995, the application for compassionate appointment should have been submitted within three years from the date of death of the employee i.e., Sebastine who has been declared Civil death on 14.06.2005. So if three years is calculated the application should have been given on or before 14.06.2008 but in this case it was submitted only in the year 2016. Hence, the relief sought for in this writ petition cannot be granted.

7. In view of the above facts and circumstances of the case, this Court is not inclined to interfere with the impugned order dated 06.12.2019 passed by the third respondent.

8. In the result, the the writ petition stands dismissed. No costs.

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Index : Yes/No

Speaking Order: Yes/No



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J. SATHYA NARAYANA PRASAD, J.

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