



WEB COPY



W.P.No.22730 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.22730 of 2023

V.Viswanathan

... Petitioner

Vs.

1.The Principal Secretary to Government,
Rural Development and Panchayats Department,
Fort St. George, Chennai – 600 009.

2.The Director of Rural Development
and Panchayats,
Panagal Buildings,
Chennai – 600 015.

3.The District Collector,
Kanchipuram District,
Kanchipuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent, culminating in the Order in Ref.No.Na.Ka.No.34287/2011/PA3, dated 14.03.2017, and quash the same and consequently, to direct the 3rd respondent to provide employment to the petitioner on compassionate grounds, consequent upon the demise of his father N.Veeraghavan, who died on 12.07.2011, while serving as Cashier with Kattankulathur Panchayat Union, in the light of G.O.Ms.No.42, Labour



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and Employment, dated 12.03.2007 and the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules 2023.

For Petitioner : Mr.B.Harikrishnan

For Respondents : Mr.E.Vedabagath Singh
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the 3rd respondent, dated 14.03.2017, rejecting the petitioner's application for compassionate appointment.

2.It is the case of the petitioner that his father died in harness on 12.07.2011 and the petitioner made an application immediately on 02.09.2011 seeking appointment on compassionate grounds. However, it is the grievance of the petitioner that the same has been rejected by the 3rd respondent, vide impugned order dated 14.03.2017, on the ground that, since the petitioner's brother, namely, V.Saravanan, is working as Secretary in a Panchayat, the petitioner's request for compassionate appointment cannot be considered as per G.O.(Ms) No.40, Labour and Employment (Q1) Department, dated 05.01.1990. Challenging the rejection order, the present writ petition has been filed.



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3.Learned counsel for the petitioner mainly contended that the Government Order in G.O.(Ms) No.40, Labour and Employment (Q1) Department, dated 05.01.1990 is not applicable to the present case, since the Government have recently notified the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, vide G.O.(Ms) No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, and by virtue of the provisions of the said Rules, the impugned order is liable to be quashed.

4.Heard the learned counsel for the petitioner and Mr.E.Vedabagath Singh, learned Special Government Pleader, appearing for the respondents.

5.On a perusal of G.O.(Ms) No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, relied upon by the learned counsel for the petitioner, it is seen that proviso to Clause (3)(b) of Rule 3 of the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, notified in the said Government Order, makes it clear that, even if a member of the family is in regular employment and is



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living separately without providing any monetary assistance to the family

before the death or retirement of the Government servant, shall not make

the family ineligible for compassionate appointment. Therefore, it is clear

that merely because a member of the family of the deceased Government

servant is working in a Government job, the same will not disentitle the

other family members from claiming compassionate appointment,

provided the working member is not contributing any monetary assistance

to the family. In view of the above proviso, though this Court is of the

view that the impugned order is not valid in the eye of law, the fact

remains that the impugned order of rejection was passed on 14.03.2017

and the same is put to challenge after a lapse of more than 6 years in this

writ petition. There is no reason given as to why such a huge delay has

occurred in challenging the impugned order. That itself clearly indicates

that the petitioner has slept over, which is a clear-cut laches on the part of

the petitioner. The very scheme of compassionate appointment is a

concession shown by the Government. The scheme of compassionate

appointment was introduced only to alleviate the distress of the family,

caused due to the death of the breadwinner of the family at the relevant

point of time. The object behind the scheme of compassionate

appointment is to take care of the family immediately after the death of the



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employee. It is a concession shown by the Government which has to be availed within the time limit. Despite having invited the order of rejection in the year 2017, the petitioner has slept over all these years and suddenly, after waking up from a deep slumber, the petitioner has come forward to file this writ petition challenging the impugned order of rejection, which cannot be entertained. Hence, this writ petition is liable to be dismissed on the ground of delay and laches.

6. Therefore, on the sole ground of delay and laches, this writ petition is dismissed. No costs.

03.08.2023
(2/2)

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order

To

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Fort St. George, Chennai – 600 009.

2. The Director of Rural Development
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3.The District Collector,
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