



W.P.No.22258 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.22258 of 2023 &

WMP.No.21643 of 2023

M.Dhivakar

... Petitioner

Vs

1. The Commissioner,
Department of Adi-Dravida & Tribal Welfare,
Chepauk, Chennai – 5.
2. The District Adi Dravida & Tribal Welfare Officer,
Department of Adi Dravida & Tribal Welfare,
Chengalpattu & Chengalpattu District.
3. The Special Tahsildar,
Adi Dravida & Tribal Welfare Department,
Chengalpattu & Chengalpattu District.

... Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Order passed by the first respondent in



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Na.Ka.No.E6/13170/2015 dated 19.02.2021 and quash the same as illegal and consequently direct the respondents 2 and 3 to provide the petitioner an employment in any post in consonance with the petitioner's educational qualification by considering the proposal submitted by the third respondent dated 10.10.2013.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader – R1 to R3

ORDER

This Writ Petition has been filed to quash the impugned Order passed by the first respondent dated 19.02.2021 as illegal and consequently direct the respondents 2 and 3 to provide the petitioner an employment in any post in consonance with the petitioner's educational qualification by considering the proposal submitted by the third respondent dated 10.10.2013.



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2. The case of the petitioner is that the father of the petitioner died in the year 2003. After his death, originally the mother of the petitioner has filed an application for compassionate appointment on 06.11.2006. The petitioner had attained majority in the year 2013. In the year 2012, the mother of the petitioner filed an application seeking compassionate appointment to the petitioner. The same has been rejected by the first respondent. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submitted that in a similar situation, this Court has passed an Order direction for compassionate appointment in **K.Pitchaimani Vs. The Secretary to Government and others** reported in **CDJ 2014 MHC 3019**. According to the learned counsel, in the above judgment, this Court has held that application has been filed within three years after attaining majority and the same can be considered. Further, he has also stated that the Appex Cour in the judgment in **Malaya Nanda Sethy Vs. State of Orissa and others in Civil Appeal No.4173 of 2022 [Arising out of SLP [Civil]**



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No.936/2022] has held that the application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Hence, it is his contention that when the application has been filed in time, the application seeking compassionate appointment of the petitioner cannot be rejected and the impugned Order has to be set aside.

4. I have perused entire materials available on record. From the facts of the Writ Petition, it appears that after the death of the petitioner's father, mother of the petitioner has given an application in year 2006 for compassionate appointment. Having given an application, she has not taken any steps till the year 2012 to pursue her application. In the year 2012, she gave an application to appoint her son, viz., the petitioner. The petitioner has attained majority only in the year 2013. These facts are not disputed.

5. It is relevant to note that the very object of compassionate appointment is to alleviate the distressed family of the Government servant who died in harness. Particularly, when the family members of



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the Government servant are not in a position to maintain the family due to sudden loss of the Government servant, on whom they are totally dependant. To address the above issue, compassionate appointment is envisaged. Having given an application in the eyar 2006, the petitioner's mother has not persued the same. Whereas in the year 2012, she has given another appolication seeking appointment to the petitioner. The petitioner attained majority only in the year 2013. Therefore, this Court is of the ivew that the mother of the petitioner ought to have pursued her application. After a period of six years, she cannot assign that application in favour of her son. In such view of the matter, this Court is of the view that as a matter of right, compassionate appointment cannot be granted. Though as per the above judgment cited by the learned counsel for the petitioner that the application filed by the person on attaining majority could be considered, in the above case, the application itself has been given by the petitioner on his attaining majority. Whereas, in this case, the application has been given by the mother of the petitioner. Hence, as a matter of right one cannot seek compassionate appointment when the policy of the Government stipulates that the



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application should be given within three years, the same should be followed strictly. The very object of compassionate appointment is to address the adversity of the family immediately. Therefore, the same cannot be extended beyond the period, as per the policy of the Government. Hence, I do not find any merits in this Writ Petition.

6. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

28.07.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Commissioner,
Department of Adi-Dravida & Tribal Welfare,
Chepauk, Chennai – 5.
2. The District Adi Dravida & Tribal Welfare Officer,
Department of Adi Dravida & Tribal Welfare,
Chengalpattu & Chengapattu District.
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N.SATHISH KUMAR, J.

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