



Writ Appeal No.474 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 03.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.474 of 2019

S.Muthukumar

... Appellant/Petitioner

Vs

1. The Secretary to Government,
Labour and Employment Department,
Secretariat, Chennai – 600 009.

2. The Director of Public Library,
No.737/1, Anna Salai,
Chennai – 600 002.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Pattern to set aside the order dated 14.09.2017 made in W.P.No.6271 of 2015 and allow this writ appeal.

For Appellant : Mr.P.Rajkumar Pandian

For Respondents : Mr.M.Murali
Government Advocate



JUDGMENT

WEB COPY (Judgement of the Court was made by Mr.R.SURESH KUMAR.,J.)

This writ appeal has been directed against the order passed by the Writ Court dated 14.09.2017 made in W.P.No.6271 of 2015.

2. The appellant was writ petitioner before the Writ Court. His case was that, his father was working in the second respondent's office as Office Assistant (OA) i.e., at Library and during his service, he died in harness on 19.05.2004.

3. At the time of appellant's father died, the appellant was 13 years old therefore, he was waiting to reach majority, therefore on his behalf, the mother i.e., widow of the employee had made an application seeking compassionate appointment to his son on 02.01.2008 admittedly.

4. However, as per the procedure, which is in vogue seeking for any compassionate appointment, the application should have been made by the legal heir either the widow or the son or daughter, who must have been major within the three years period from the date of death of an employee.

5. Herein the case in hand, the death occurred on 19.05.2004,



therefore the three years period was upto 19.05.2007. Within the said three years period there has been admittedly no application made since the same has been made only on 02.01.2008. First of all, which is beyond the three years period.

6. The reason according to the learned counsel appearing for the appellant is that, the petitioner/appellant, who is the son of the deceased employee was minor at the time of his father died in the year 2004 i.e., he was only 13 years old.

7. Even on 02.01.2008, when the belated application was made on his behalf by the wife of the employee i.e., mother of the petitioner/appellant, even then he did not reach the majority, therefore, at no stretch of imagination, his application should be treated as valid application for the purpose of consideration for compassionate appointment to him.

8. Therefore his application was rejected through the order passed by the Department, which was impugned before the Writ Court.

9. The learned Judge, who heard the matter at length has passed an



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order on 14.09.2017 approving the stand taken by the respondent Department rejecting the plea raised by the petitioner/appellant for getting compassionate appointment on various reasons including these two reasons i.e., belated application and at the time making the application, the petitioner/appellant was a minor.

10. These two reasons, which are admittedly the factual matrix would make dis-entitle the petitioner/appellant to seek for compassionate appointment. In this context, the law is well settled that if an application is made beyond the three years period as provided under the statute, which envisages the scheme of compassionate appointment, then such an application would be rejected out rightly. Like that, at the time of making the application i.e., well within the three years period, the person for whom such a compassionate appointment is sought for must have the minimum qualification and he must have attained the majority and if the person does not attained the majority even on that ground also, the employer need not wait till the legal heir reaches majority.

11. This view has already been taken by the law courts, which has



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been settled by more than one judgment therefore, we do not find any error on the approach of the learned single Judge, who dismissed the writ petition filed by the petitioner/appellant, which is impugned herein.

12. In that view of the matter, we do not find any merits in this appeal, accordingly it fails and it is dismissed. No costs.

(R.S.K.,J.) (K.B., J.)
03.07.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

mp

To

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