



W.P.(MD).No.4710 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.4710 of 2021

and

W.M.P(MD)No.3823 of 2021

R.Vasantha

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
St.George Fort,
Chennai-600 009.

2.The Director,
Office of the Directorate of Medical Education,
Kilpauk,
Chennai-600 010.

3.The Dean,
Kanyakumari Government Medical College,
Aasaripallam,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent herein in Na.Ka.No.7270/Nee 3/2018, dated 28.04.2020 and quash the same as illegal



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and consequently direct the respondents to appoint petitioner's son M.Ramanan, aged 22 years on compassionate ground by considering the petitioner's representations to the third respondent herein sent in the month of April 2009, 19.06.2018 and petitioner's son's representation sent in the month of May 2018 01.07.2019, 02.03.2020 and 18.08.2020.

For Petitioner : Mr.R.V.Sivaraman
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition is for a Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent herein in Na.Ka.No.7270/Nee 3/2018, dated 28.04.2020 and quash the same as illegal and consequently direct the respondents to appoint the petitioner's son M.Ramanan, aged 22 years on compassionate ground by considering the petitioner's representations to the third respondent herein sent in the month of April 2009, 19.06.2018 and petitioner's son's representation sent in the month of May 2018 01.07.2019, 02.03.2020 and 18.08.2020.

2. The petitioner's husband one R.Muthuramalingam was initially appointed as 'Pandaga Kappalar' on temporary basis in the third respondent



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Medical College. Though he was initially appointed on temporary basis, his service was regularised with effect from 01.04.2007 vide G.O(Ms)No.218 Health and Family Welfare (AA2) Department, dated 09.09.2016. Even before he was regularised, unexpectedly on 14.11.2008, the petitioner's husband had died. The said R.Muthuramalingam was survived by the petitioner, his son and two daughters. Immediately after the death of the petitioner's husband, on April 2008, the petitioner made an application for appointment on compassionate ground to the respondents.

3. Having received the application on 13.07.2009, the third respondent rejected her application seeking compassionate appointment on the ground that the said employee's service was not regularised on the date of his death and he was employed in a temporary post. However, after some time in the year 2016 his job was regularised with effect from 01.04.2007 vide G.O(Ms)No.218 of the Health and Family Welfare (AA2) Department dated 09.09.2016. Due to this change in circumstance, the petitioner once again made an application seeking appointment on compassionate ground for her son in view of the fact that she has crossed 50 years of age. However, considering the same, the impugned order, dated 28.04.2020 came to be passed by the third respondent.



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The petitioner's application for compassionate appointment for her son, which was made on 01.04.2018 was rejected on the ground that having made an application seeking employment for herself at the first instance, she cannot make an alternate application seeking employment for her son in the light of G.O(Ms)No.18 Labour and Employment (Q1) Department dated 23.01.2020. Hence, this writ petition has been filed.

4. The learned Counsel for the petitioner submitted that the change in circumstance which occurred in this case due to the subsequent regularisation of the employee after 8 years from the date of his death on 14.11.2008 should be taken into consideration compassionately and also considering the fact that the Tahsildar has confirmed that still the family is in penury, this writ petition is liable to be allowed.

5. Per contra, the learned Government Advocate relying on the judgment passed by the Hon'ble Division Bench of this Court on 24.02.2022 in *N.Manivel Vs. The Principal District Judge, Dharmapuri District and Another* submitted that whenever a controversy as far as compassionate appointment arises, the date of death of the employee should be taken as a



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deciding factor to arrive at a decision as to the entitlement of the applicant. Even in this case, the date of death of the employee was 14.11.2008 and the application was submitted after a delay of 10 years on 11.04.2018 and on that ground, this case is not sustainable and hence, this writ petition is liable to be dismissed.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

7. In the light of the order of the Hon'ble Division Bench and also G.O(Ms)No.18, dated 23.01.2020, Labour and Employment (Q1) Department, this Court is inclined to dismiss this writ petition.

8. In the result, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

13.07.2023



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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
BTR

To

- 1.The Secretary,
The State of Tamil Nadu,
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St.George Fort,
Chennai-600 009.
- 2.The Director,
Office of the Directorate of Medical Education,
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L.VICTORIA GOWRI, J.

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