



W.P.(MD).No.13863 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.13863 of 2022

S.Stalin

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Department of Revenue Administration,
Represented through its Secretary,
Fort St. George, Chennai.

2.The District Collector,
Thanjavur District,
Thanjavur.

3.The Tahsildar,
Office of Tahsildar,
Thiruvaiyaru Taluk,
Thiruvaiyaru,
Thanjavur 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 second respondent's impugned note order in Na.Ka.No.A1/5656/2020, dated 17.03.2022 and quash the same as devoid of merits and consequently directing the respondents to grant compassionate ground appointment to the petitioner for the death of his father late T.Selvaraj, VAO, within the period stipulated by this Court.

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For Petitioner : Ms.S.Vedavalli
For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 17.03.2022 passed by the second respondent and consequently directing the respondents to grant appointment on compassionate ground to the petitioner.

2.Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents and perused the materials available on record.

3.The petitioner's father one T.Selvaraj worked as a Village Administrative Officer under the third respondent's office. While in service, he passed away on 29.06.1996. He was survived by his wife, the petitioner and his sister. At the time of the death of the petitioner's father, he was 12 years old. On 17.08.1998, the petitioner's mother



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submitted a representation for appointment on compassionate grounds before the second respondent. On 20.08.1998, the third respondent directed the petitioner's mother to produce the necessary documents to process her application. Since the petitioner's mother's representation was not considered, the petitioner's mother made a fresh application on 09.01.2001 seeking employment for her son, i.e., the petitioner, on compassionate grounds. Considering the said application, the third respondent issued a communication in Na.Ka.No. 5825/96-A4, dated 16.02.2001, directing the petitioner's mother to renew the petition for compassionate appointment and by this time, the petitioner has attained the age of majority. As directed by the third respondent, the petitioner's mother renewed the application, following which on 16.02.2001 and once again on 01.05.2002, the Tahsildar, Thiruvaiyaru, directed the petitioner's mother to renew her application. Thereafter, on 25.08.2003, the Revenue Divisional officer, Thanjavur, passed an order stating that there is no practice to give appointments on compassionate grounds at that point of time and the application of the petitioner's mother would be considered on the issuance of appropriate Government Orders. Thereafter, on 17.01.2006, the second respondent urgently recommended the case of the petitioner's mother's application seeking compassionate appointment for the



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petitioner. The second respondent has directed the third respondent to ascertain whether the petitioner's mother's application was made within a period of three years and whether the petitioner is entitled for the said appointment. In furtherance of the same, on 13.02.2006, the Revenue Divisional Officer, Thanjavur, has directed the petitioner to seek remedy before the Tahsildar, Thiruvaiyaru. Following which, in the month of July, 2006, the Tahsildar, Thiruvaiyaru has forwarded the application made by the petitioner's mother before the concerned Revenue Divisional Officer at Thanjavur, for appropriate action with all necessary documents. On the basis of which, the Revenue Divisional Officer, Thanjavur, directed the petitioner to appear before him on 14.08.2006 for appropriate enquiry, vide proceedings, dated 07.08.2006.

4. However, a perusal of the records would reveal that the petitioner's application and his mother's application have been kept in abeyance under the consideration before the various officers ranging from District Collector Office, Thanjavur, Revenue Divisional Officer Office, Thanjavur and also the Tahsildar Office, Thiruvaiyaru in different period of time without consideration and again on 11.03.2015, the District Collector, Thanjavur has required the petitioner to produce all



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necessary documents, to prove that his application has been made within three years from the date of death of his father. Even after that, the petitioner's application was kept in abeyance and finally on 25.06.2020, once again the second respondent required the third respondent to seek the documents pertaining to the petitioner which is pending before him with respect to his application seeking employment on compassionate grounds and finally on 17.03.2022, the impugned order came to be passed by the second respondent rejecting the petitioner's claim for compassionate appointment on the ground that the petitioner's application seeking compassionate appointment was made by the petitioner's mother at the first instance on 17.08.1998 and thereafter on 09.01.2001, she had sought for alternative employment for her son. Such an application could not be accepted in view of the mandates in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020. A person who has made an application on compassionate grounds cannot make an alternative application seeking an appointment to another person from the same family. If at all, a person from the same family has to make a second application seeking an appointment on compassionate grounds, then the person who had made the application at the first instance must die. Since in this case, the petitioner's mother is still alive, the petitioner is not



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entitled to seek appointment and on that ground, the impugned order came to be passed.

5.The learned counsel appearing for the petitioner, relying upon the order passed by this Court in **W.P.No.1866 of 2020, dated 23.07.2021 (R.Vishnupriyan Vs. The Secretary to Government and others)** and this Court dealt with the case, where an application was made beyond the period of three years when the applicant attained the age of majority, this Court has passed favourable order to the applicant and the relevant portion of which is extracted as follows:-

"4. The second respondent herein, through the impugned order dated 07.02.2018, had rejected the petitioner's request, on the ground that the petitioner was a minor when the 3 year period from the date of death of the employee had expired and since the application was belatedly made after 12 years, it is unacceptable.

5. The issue as to whether, the respondents are justified in claiming that an application requires to be made within a period of 3 years, when such an applicant is a minor at the relevant point of time, came up for consideration before the Hon'ble Division of this Court in the case of S.Velraj Vs. The Superintendent Engineer



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and another and the Hon'ble Division Bench, in its order dated 16.12.2015 passed in W.A.No.1400 of 2011, had set aside the order of rejection, by holding that the requirement for making an application by a minor at the relevant point of time, is not justifiable. The relevant portion of the order reads thus:-

"3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for appointment on compassionate ground, on attaining majority, the respondents have to consider the



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appellant's application for appointment on compassionate ground.

4. In view of the above, the Writ Appeal is allowed and the order of the learned Single Judge and also the order of rejection for appointment on compassionate ground are set aside and the matter is remanded to the first respondent for fresh disposal, in the light of the judgment passed by this Court. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs."

6. A similar view was taken by this Court in the case of C.Muthulakshmi and another Vs. The District Collector, Krishnagiri District and two others passed in W.P.No.30563 of 2016, wherein this Court has also held that the application by a minor within 3 years after becoming a major, would be maintainable, particularly, when the mother had made an application within a period of 3 years from the date of death of the Government employee.

7. In the instant case, it is submitted that the petitioner's grand mother had made an application on 02.01.2001, which is within the period of 3 years from the date of death of the employee. Hence, the reason assigned by the respondents for rejecting the petitioner's claim for compassionate appointment, cannot be sustained."



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6. Even in this case, the petitioner's mother made an application within a period of three years from the date of death of the employee seeking an appointment to her, only because the petitioner was a minor and was only 12 years old at the time of death of his father. That apart, the application made by the petitioner's mother was not considered and the same was pending with the respondents for appropriate decision. Later, when the petitioner attained the age of majority in the year 2001, the petitioner's mother made an application seeking compassionate appointment for the petitioner, for which, the respondents without rejecting the same on the ground that the application has been made seeking alternative employment when the applicant at the first instance is alive, on the other hand, the respondents directed the petitioner's mother to renew the application seeking compassionate grounds and on that basis, the petitioner's mother renewed the application seeking compassionate appointment on 09.01.2001. The respondents ought to have rejected the application seeking compassionate appointment for the petitioner, which was submitted by his mother in the renewed format in the year 2001 itself. On the other hand, the respondents required the petitioner's mother to submit necessary documents which would prove



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that the petitioner is entitled to compassionate appointment and the petitioner and the petitioner's mother were made to run between pillar and post between various offices of the second respondent, third respondent and also the Revenue Divisional Officer office at Thanjavur keeping on the matter in abeyance seeking several documents and requiring them to appear for enquiry again and again and finally after a span of 26 years, on 17.03.2022, the impugned order came to be passed. Though the impugned order has been passed in line with G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the respondents ought not to have rejected the application made by the petitioner because they themselves gave an opportunity to the petitioner's mother to renew her application and that too which was made promptly by the petitioner on attaining the age of majority.

7.In view of the order passed by this Court in W.P(MD)No. 1866 of 2020, this Court has held that an application made by the employee's legal heirs who had been a minor within three years from the date of death of the employee and when the application is belatedly made on attaining majority, such an application should be accepted in line of the said order passed by this Court.



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8.In this case, this Court directs the respondents to treat it as a special case and appoint the petitioner in a suitable job in terms of his educational qualification. Moreover, this is a special case, wherein, the petitioner and the petitioner's mother's application was kept in abeyance for 26 long years and the respondents cannot refuse to appreciate the application on the basis of G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020 and fixing liability for their prolonged delay to dispose of an application seeking compassionate appointment, the respondents are bound to give employment to the petitioner and in that term, this Court is inclined to quash the impugned order, dated 17.03.2022 passed by the second respondent.

9.Accordingly, the impugned order, dated 17.03.2022 passed by the second respondent is quashed and the respondents are directed to provide employment to the petitioner forthwith.



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10. With the above directions, this Writ Petition is allowed.

There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The Secretary,
Represented by the Department of Revenue Administration,
Fort St. George,
Chennai.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.The Tahsildar,
Office of Tahsildar,
Thiruvaiyaru Taluk,
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L.VICTORIA GOWRI, J.

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