



W.P.(MD).No.17431 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17431 of 2019

M.Manimaran

... Petitioner

Vs.

1.The District Educational Officer,
Vedasandur,
Dindigul District.

2.The Block Educational Officer,
Guzliamparai,
Dindigul 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 order in Moo/Ma/No.1105 / A4/2019 dated 06.06.2019 on the file of the respondent No.1 and quash the same as illegal and consequently to direct the respondent to consider the petitioner for appointment on compassionate ground within the time stipulated by this Court.



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For Petitioner : Mr.S.Louis

For Respondents : Mr.V.Omprakash,
Government Advocate.

ORDER

This Writ Petition is filed to quash the order dated 06.06.2019 on the file of the respondent No.1 and quash the same as illegal and consequently to direct the respondent to consider the petitioner for appointment on compassionate ground within the time stipulated by this Court.

2. The petitioner's father who was serving as Secondary Grade Teacher in Panchayat Union School died on 28.03.1996 while he was in service, leaving behind the petitioner, his mother and his elder sister as legal heirs. At the time of death of the petitioner's father, the petitioner was one year old and his elder sister was 3 years old. After attaining majority in the year 2014, the petitioner submitted an application seeking for compassionate appointment. But his application was rejected vide impugned order dated 06.06.2019. Aggrieved over the same, the present Writ Petition is filed.



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3. The learned Government Advocate appearing for the respondents submitted that the petitioner has submitted an application seeking compassionate appointment and it was rejected on the ground that the application is beyond the period of three years limitation. Hence the petitioner's claim was rejected as belatedly application and therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.S.Louis, learned counsel for the petitioner and Mr.V.Omprakash, learned Government Advocate for the respondents.

5. The issue of compassionate appointment was referred to the Full Bench of this Court by framing the following question for reference:

"Whether the view taken in A.Kamatchi's case holding that an application for compassionate appointment made even beyond three years of the death of the deceased needs consideration, is the correct law or the judgment of the Division Bench in N.Renugadevi's case, where a contradictory view has been taken, is the correct law?"



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The Hon'ble Full Bench of this Court in *W.P. (MD) Nos.7016 of 2011 and batch by judgment dated 11.03.2020* has considered all the previous judgments and discussed in detail after taking note of various Government order / guidelines in relation to compassionate appointment. The scope of belated application by minors attaining majority or other circumstances was considered and the Hon'ble Full Bench had categorically held that the three years period ought to be taken into account from the date of death of the deceased employee and it cannot be calculated from the date of attaining majority. Following the Hon'ble Full Bench judgment, the Hon'ble Division Bench had passed orders in *W.A.(MD) No.682 of 2022 in the case of V.Deepika Vs. the District Collector and others*, *W.A.(MD) No.457 of 2022 in the case of P.Babyshalini Vs. the Principal Secretary and others* and *W.A.(MD) No.769 of 2022 in the case of K.Nambirajan Vs. Divisional Engineer and others*, wherein, the claim of the legal heirs was rejected and held that the application was submitted belatedly beyond the period of three years and the three years period ought to be calculated from the date of death of the Government servant. Any claim beyond the scheme of compassionate appointment cannot be entertained.



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6. The object and purpose of the compassionate appointment is to provide immediate financial assistance to the family of the deceased Government servant, so as to protect them against any form of indigent because of the death of the sole bread winner of the family. The Hon'ble Supreme Court has taken a consistent view that the family members of the deceased employee should not be considered for appointment on compassionate basis beyond the period fixed under the scheme. The Hon'ble Supreme Court in the case of ***Sanjay Kumar Vs. State of Bihar***, reported in **(2000) 7 SCC 192**, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application filed by the dependent of the deceased employee after he attains majority cannot be entertained. The belated applications will be contrary to the scheme framed by the Government. It will also be contrary to the judgments of the Supreme Court. The Hon'ble Full Bench has held that the scheme does not permit entertaining an application by a dependent after attaining majority, hence the period of limitation ought to be considered from the date of death alone and not from the date of attaining majority.



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WEB COPY 7. Therefore, this Court following the judgment of the Hon'ble Full Bench and the principles laid down by the Hon'ble Supreme Court in several cases, is of the considered opinion that the petitioner's claim for compassionate appointment cannot be considered since the petitioner had submitted after attaining majority and the application is belated beyond three years when calculated from the date of death of the deceased employee. Hence, the claim of the petitioner is rejected.

8. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs.

16.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To
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S.SRIMATHY, J.

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