



W.P.(MD)No.17186 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17186 of 2016

and

W.M.P.(MD)No.12465 of 2016

S.Suresh

... Petitioner

vs.

1.The Director General of Police,
Mylapore, Chennai.

2.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order Na.Ka.No.A4/31553/2015, dated 21.07.2015, issued by the 2nd respondent and to quash the same and consequently, to direct the respondents to appoint the petitioner under compassionate ground in any one of the suitable post based on the petitioner's educational qualification within a time limited to be



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fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
for M/s.Victory Associates
For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order, dated 21.07.2015 of the 2nd respondent and consequently direct the respondents to appoint the petitioner under compassionate ground in any one of the suitable post based on the petitioner's educational qualification within a time limited to be fixed by this Court.

2. The petitioner's father was working in the respondent Department as Police Constable and died due to heart attack on 23.02.2006, leaving behind the petitioner and the petitioner's mother. At the time of death of the petitioner's father, the petitioner was only eight and a half years old and the petitioner's



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mother had studied only 6th standard. The petitioner's mother did not apply for any compassionate appointment. The petitioner has applied for compassionate appointment on the verge of attaining majority. However, the respondents have rejected the same. Subsequently, the petitioner applied for compassionate appointment again. The petitioner's claim for compassionate appointment was rejected, vide impugned order, dated 21.07.2015.

3.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?" 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



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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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4. 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. Considering 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



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death alone and not from the date of attaining majority.

5. 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 for three years period after she attains majority, but it ought to be considered from the date of death of the deceased employee. Hence, the claim of the petitioner is rejected.

6. In view of the above, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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