



REV.APLC(MD)No.170 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE K.MURALI SHANKAR**

**REV.APLC(MD)No.170 of 2021 in
W.A(MD)No.1972 of 2021 in
W.P(MD)No.21724 of 2018**

Shri Muniasamy

... Petitioner

vs.

**1. The Director,
Public Health and Preventive Medicine,
DMS Campus,
Chennai-600 006.**

**2. The Deputy Director,
Health Services,
Thoothukudi District,
Thoothukudi.**

**3. The Block Medical Officer,
Primary Health Centre,
Eral-628 801,
Thoothukudi District.**

... Respondents

PRAYER : Review Application filed under Order 47 Rule read with Section 114 of the Civil Procedure Code, to review the order made in W.A(MD)No.1972 of 2021 dated 28.10.2021.

For Petitioner : Mr.G.Thalaimutharasu



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For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

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ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

Review is sought for of the judgment of the Division Bench dated 28.10.2021, wherein, the Division Bench had affirmed the rejection of the writ petition filed by the petitioner seeking to quash the order refusing his request for compassionate appointment.

2. It is a very unfortunatue case where the petitioner lost his mother when he was two years old and his father also disappeared. A suit was filed for a declaration that his father is civilly dead and the same was decreed in the year 2009. However, the petitioner sought for compassionate appointment on 06.06.2017 on attaining the age of 18 years. The same was rejected by the authority on the ground that it is made three years after the death of the Government Servant. The same was affirmed in appeal, particularly relying upon the judgment of the Full Bench of this Court in W.P(MD)No.7016 of 2011 dated 11.03.2020. Aggrieved, the petitioner is on review.



3. Mr.Thalaimutharasu, learned counsel appearing for the petitioner would draw our attention to the observations of the Full Bench in Paragraph 13 of the said judgment of the Full Bench which read as follows:-

"13. In the light of the above we find that the judgment in the case of A.Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E.Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."

to contend that this is a fit case where the State must consider relaxation.

4. We must point out that just prior to the judgment of the Full bench dated 11.03.2020, the Government has come out with a comprehensive scheme for compassionate appointment in G.O(Ms)No.18, Labour and Employment (Q1) Department, dated



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23.01.2020, prescribing the time limit as three years from the date of death of the Government servant. Relaxation is not a matter of right. It has to be provided for in the statute or the rules. In the absence of such provision for relaxation, we do not think that this Court will be justified in directing relaxation. Moreover, we are not hearing an appeal against the judgment of the learned Single Judge. We are on a review. Unless there is an error apparent on the face of the record, the review jurisdiction cannot be exercised. The learned counsel, despite his best efforts, is unable to point out an error apparent on the face of the record in the judgment under review.

5. Hence, this Review Application stands dismissed. No costs.

(R.SUBRAMANIAN, J.) & (K.MURALI SHANKAR, J.)
17.04.2023

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

To

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ORDER MADE IN
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