



W.P.No.30548 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.30548 of 2012
and M.P.No.1 of 2014

P.Balaji

... Petitioner

Vs.

1.The Commissioner,
Survey and Land Reform Department,
Ezhilagam,
Chennai – 5.

2.The Assistant Director of Survey,
and Settlement Office,
Salem.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order passed by the second respondent in ந.க.அ3.208/2012, dated 13.04.2012 and quash the same thereby direct the respondents to give employment to the petitioner on compassionate ground.

For Petitioner : Mr.A.R.Nixon
For Respondents : Mr.M.Rajendiran
Additional Government Pleader



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ORDER

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The petitioner has filed this writ petition seeking to call for the records relating to the order passed by the second respondent in ந.க.அ3.208/2012, dated 13.04.2012 and quash the same thereby direct the respondents to give employment to the petitioner on compassionate ground.

2. The case of the petitioner is that the petitioner's father was working as Surveyor in the respondent department and he died in harness on 04.12.1976, leaving behind the petitioner, his mother and his sister as legal heirs. At the time of death of his father, the petitioner was aged 6 months. Thereafter, the petitioner has studied upto X standard. This being so, on 18.08.1997, the petitioner has made a representation before the respondent department for appointment under compassionate ground and the same was forwarded to the second respondent. In this regard, the Tahsildar has also given a certificate in M.Mu.No.26833/1998 (அ7) dated 09.02.1999.

3. Learned counsel for the petitioner would further submit that the second respondent has returned the application to the petitioner to correct



certain defects and also sent a letter to the mother of the petitioner to give explanation with regard to the age of the petitioner and the difference of name found in the legal heir certificate and birth certificate and demanded detailed reply. Even on 20.09.1999, the very same demand was made to the petitioner to send the SSLC Certificate and the relevant particulars thereon, which also produced by the petitioner on 30.07.2008. However, no order was passed. Therefore, the petitioner has made a representation through Collector to the second respondent. At this juncture, the petitioner has received the impugned order on 13.04.2012 stating that the petitioner is not entitled for compassionate ground appointment. Aggrieved over the same, the petitioner has come forward with the present writ petition.

4. Learned Government Advocate appearing for the respondents submitted that as per G.O.Ms.No.92, Labour and Employment, dated 12.03.2007, the person who applied within three years from the date of the death of a Government servant can only apply for appointment under compassionate grounds and the same has been clearly mentioned in the proceeding in Na.Ka.Aa3.208/2012 dated 13.04.2012 issued by the second



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respondent. Hence, the case of the petitioner is not applicable to the appointment under compassionate ground.

5. Learned Additional Government Pleader appearing for the respondents has also relied on the judgment passed by the Division Bench of this Court in W.A(MD)No.682 of 2022 dated 08.07.2022.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is not in dispute that the petitioner was minor at the time of death of his father in the year 1976 and thereafter, he has submitted an application for compassionate ground appointment in the year 1997. The second respondent has rejected the application of the petitioner on the ground that it has been filed belatedly, after a lapse of 20 years and the same cannot be considered and rejected on the ground of delay. At this juncture, it is pertinent to extract the judgment passed by the Division Bench of this Court



in W.A(MD)No.682 of 2022 dated 08.07.2022 and the same is reads as follows:

“9. The appellant is seeking compassionate appointment by stating that he had applied within three years after attaining majority. The appellant's father died on 29.10.2014, the appellant attained majority on 04.12.2017. The appellant's three years period from the date of death is on 28.10.2017. The appellant's mother had applied for compassionate appointment to her minor daughter on 15.05.2015, but as on the date of application the appellant was a minor and has no necessary qualification and hence the claim of compassionate appointment was rejected. 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. 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 appellant's claim cannot be considered for three years period ought to be considered from the date of death of the deceased employee. In this case, on the date of the death of deceased employee, the petitioner was a minor and she became major after 3 years. Unless there is scope for relaxing the rules, the application for compassionate appointment is liable to be rejected. The Learned Single Judge has rightly rejected the claim of the appellant and the appellant has not made out any case and the writ appeal is liable to be



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dismissed.”

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8. From the above factual matrix of the case and the ratio laid down by the Division Bench of this Court, it is crystal clear that for considering the petition under compassionate ground appointment, it should be taken from the date of death of the Government employee and not on the date of attaining the majority and in the case on hand, the petitioner's father died on 04.12.1976 and the petitioner has submitted the application in the year 1997. Hence, the case of the petitioner cannot be considered for appointment under compassionate ground.

9. Hence, this Court is of the considered view that the impugned order passed by the second respondent in ந.க.அ3.208/2012, dated 13.04.2012 does not warrant any interference by this Court and the same is hereby confirmed.

10. In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

12.02.2024 (vm)



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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J.SATHYA NARAYANA PRASAD,J.

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