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W.P.No.6830 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P No.6830 of 2021

R Tamil Selvan

...Petitioner

Vs.

1.Union of India,
Represented by the Secretary to Government of India,
Ministry of Home Affairs,
New Block, Central Secretariat,
New Delhi – 110 001.

2. The Director General,
CISF Hqrs, Block 13
CGO Complex,
Lodhi Road, New Delhi – 110 003.

3. The Inspector General,
CISF South Sector Hqrs
Rajaji Bhavan, Beasant Nagar,
Chennai 600 090

4. The Assistant Commandant,
CISF, BHEL(EDN)
Mysore Road,
Bangalore – 560 046

..Respondents



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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 relating to the rejection of the claim for compassionate appointment issued by the fourth respondent vide communication No.F.20017/CISF/BHEL(EDN) Act-2019/2599 & 2936 dated 25.07.2019 and 19.08.2019 and quash the same and direct the respondents to grant compassionate appointment to the petitioner in pursuance of the representation dated 17 September 2019 in the light of Gol. DoPt Om No.F-No.14014/02/2012-Estt(D) dated 16.01.2023 within a time limit fixed by this Court in the substantial interest of justice and pass orders.

For Petitioner : Mr.V. Parthiban for RBK. Venkataraman

For Respondents : Mr.V. Ashok Kumar
Central Government standing counsel.

ORDER

The father of the petitioner herein namely late Shri R. Raja Gopal was employed with the 4th respondent with Per. No.90450587 and succumbed to death on 15.12.2010 due to massive stroke at Fortis Hospital, Bangalore at the age of 41 years. Thereafter, the petitioner on attaining majority, submitted an application dated 07.06.2016 for compassionate appointment consequent upon the death of his father. The said request of the petitioner was negated by the respondent by passing the passing impugned orders dated 25.07.2019 and 19.08.2019. Aggrieved by the said orders the petitioner approached this Court by filing the present petition. On the perusal of the impugned order it is noticed that



the claim of the petitioner was negatived mainly on the ground of submission of the belated applications.

2. The learned counsel for the petitioner placed strong reliance on the Office Memorandum bearing F.No.14014/02/2012-Estt(D) dated 16.01.2013 providing for instructions on compassionate appointment and contended that in terms of Paragraph No.9 of the said instructions the belated applications and request for compassionate appointment are also required to be considered without reference to the delay. Thus, the learned counsel contended that the ground on which the impugned order came to be passed was totally unsustainable.

3. On the other hand the respondents filed a counter affidavit equally placing reliance on Paragraph No.9 of the DOPT O.M.No. F.No.14014/02/2012-Estt(D) dated 16.01.2013 and contended that the Ministry of Home affairs has considered to re-examine the cases and the competent authority decided to resubmit only such cases where applicants submitted applications for compassionate appointment within two years from the date of attaining the age



of majority. Thus, it is contended that the application that is submitted by the petitioner is beyond a period of two years from the date of attaining majority. Thus, it is contended that the said applications is rightly treated as belated and rightly rejected by the respondents.

4. This Court has carefully considered the submissions made on either side and perused the materials available on records.

5. It is not in dispute that the issue of compassionate appointment is governed by the official memorandum dated 16.01.2013, which is also relied upon by the learned counsel on either side. Paragraph No.9 of the said official Memorandum reads as under:

BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

(a) Ministries/Department can consider for compassionate appointment even where the death or retirement on medical grounds of a Government Servant took place long back, say five year or so. While considering such belated requests it should however, be



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kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government Servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may therefore, be taken only at the level of the secretary of the Department/Ministry concerned.

(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government Servant and not the age of the applicant at the time of consideration.

(c) The onus of examining the penurious condition of



*the dependent family will rest with the authority making
compassionate appointment (Para 4 of O.M.14014/3/2011-
Estt.(D) dated 26.07.2013)*

6. From the above, it is evident that the applications submitted for compassionate appointment can be considered upto 5 years. However, subject to certain precautions that are provided under Paragraph No.9 of the official memorandum. There is no absolute bar from considering the applications that are submitted beyond 2 years from the date of attaining the majority.

7. In the light of paragraph No.9 of the official memorandum which enables or confers right on the applicants for considering their case without reference to the issue of delay beyond a period of 5 years. But in the instant case, the petitioner who has submitted an application within 2 years 5 months is treated an application submitted belatedly and the same was rejected only on that ground without looking into the merits of the claim of the petitioner.

8. In the light of specific mandate given in Paragraph No. 9 of official



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memorandum F.No.14014/02/2012-Estt(D) dated 16.01.2013 the ground on which the impugned orders came to be passed is unsustainable and the same is liable to be set aside and the same is accordingly set aside. The matter is remitted back to the fourth respondent for re-considering the claim of the petitioner strictly in terms of Paragraph No.9 of the official memorandum and to pass appropriate orders thereon. The fourth respondent is further directed to pass appropriate orders as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

9. With these directions, this writ petition stands allowed by setting aside the impugned proceedings issued by the fourth Respondent in No.F.20017/CISF/BHEL(EDN) Act3-2019/2599 & 2936 dated 25.07.2019 and 19.08.2019. No costs.

10.06.2024

Index : Yes/No
Neutral Citation Case : Yes/No
smn

To
1.Union of India,

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Represented by the Secretary to Government of India,
Ministry of Home Affairs,
New Block, Central Secretariat,
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2. The Director General,
CISF Hqrs, Block 13
Cgo Complex,
Lodhi Road, New Delhi – 110 003.

3. The Inspector General,
CISF South Sector Hqrs
ChPt Complex,
Near War Memorial,
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MUMMINENI SUDHEER KUMAR, J.

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