



W.P.No.34468 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

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

Writ Petition No.34468 of 2012
and M.P.No.1 of 2012

P.Venkatesan

... Petitioner

Vs.

1.The District Collector,
Cuddalore.

2.The Tahsildar,
Thittakudi,
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling upon the production of the records relating to the order dated 04.07.2008 made in Na.Ka.N1-36587/2007 passed by the first respondent as confirmed by the order dated 26.03.2012 of the first respondent made in Pa.Mu.(A-1) 33823/2010, quash the same and direct the first respondent to appoint the petitioner to any eligible post on compassionate grounds.

For Petitioner : Mr.S.Senthil Nathan

For Respondents 1 & 2 : Mr.M.Rajendiran,
Additional Government Pleader



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ORDER

The relief sought by the petitioner in this writ petition to call upon the production of the records relating to the order dated 04.07.2008 made in Na.Ka.N1-36587/2007 passed by the first respondent as confirmed by the order dated 26.03.2012 of the first respondent made in Pa.Mu.(A-1) 33823/2010, quash the same and direct the first respondent to appoint the petitioner to any eligible post on compassionate grounds.

2. Learned counsel for the petitioner submitted that the petitioner's father was working as Village Assistant in Pelanthurai Village in Thittakudi Taluk, Cuddalore District and while in service, he died on 21.04.2000, leaving behind his wife, sons and daughter as legal heirs. During the death of petitioner's father, all the sons (including the petitioner) were minors and his daughter was major and married. This being so, the petitioner's mother made an application dated 07.10.2000 to the respondent herein seeking compassionate appointment in favour of the petitioner and the same was forwarded to the first respondent.



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3. Learned counsel for the petitioner would further submit that the petitioner belongs to Hindu, Adi-Dravida Community and passed Higher Secondary Course in March 2004. In this regard, the second respondent has also issued certificate in March 2006 that his family is eligible to get appointment on compassionate grounds. The Revenue Inspector also conducted enquiry on the representation on 11.04.2007 and recorded the statement that the petitioner's mother was not re-married. While so, after the petitioner became major, he made a representation dated 21.07.2007 to the respondents requesting for appointment on compassionate grounds. However, the first respondent passed an order dated 04.07.2008 by rejecting the application on the ground that the petitioner has made application after 7 years from the date of death of his father and simply ignored the fact that the petitioner's mother had made application dated 07.10.2000, within 6 months from the date of his father's death for compassionate ground appointment in favour of the petitioner.



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4. Learned counsel for the petitioner would further submit that the petitioner has made several representation before the respondents stating that his mother has already made a representation dated 07.10.2000 for compassionate ground appointment in favour of him, within three years from the date of death of his father. Instead of considering the representation of the petitioner, the first respondent again issued a proceeding dated 26.03.2012, rejecting the request of the petitioner and confirmed the earlier order dated 04.07.2008. Challenging the same, the petitioner has come forward with the present writ petition.

5. The second respondent has filed the counter affidavit in the month of May 2013. Learned Additional Government Pleader appearing for the respondents would submit that the petitioner's mother viz., Amirtham has applied requesting grant of job to the petitioner on 24.12.2006 under compassionate ground. The proposal was submitted to the Revenue Divisional Officer, Vridhachalam from the second respondent's office. The petition said to have been presented on 07.10.2000 by the petitioner's mother was neither received nor pending at Taluk Office, Tittagudi/second



respondent and the same was ascertained by the concerned section of Taluk Office, Thittagudi and those records were now destructed. Moreover, there was no evidence produced by the petitioner's mother for having applied for compassionate ground job in the year 07.10.2000. The proposal was prepared and forwarded to the Revenue Divisional Officer, Vridhachalam along with the fresh application presented in the year 09.05.2007.

6. Learned Additional Government Pleader appearing for the respondents would further submit that as per the legal heir certificate dated 27.04.2000, the age of the petitioner was 10 years and the petitioner applied for grant of job under compassionate grounds on 21.07.2007 and at that time, the petitioner was only 17 years and not attained the majority of 18 years. The petitioner has got all the certificates in order to apply for grant of job under compassionate grounds, which were received in the year 2007 by the petitioner.

7. Learned Additional Government Pleader appearing for the respondents further contended that the petitioner's mother ought not have applied for compassionate ground on 07.10.2000. If that is true, there must



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be a spare copy in manual or xerox copy. As per G.O.Ms.No.120, Labour and Employment, dated 25.06.2007, 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. Hence, the first respondent has clearly mentioned in his letter Ref.A1/36587 dated 04.07.2008, the petitioner has applied after 11 years from the death of his father. So, the first respondent has rejected the application and returned the proposal along with original certificates. The above fact was also replied to the petitioner when he applied the reason of the rejection under the Information Act, dated 24.09.2012.

8. 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.

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



10. In the case on hand, the petitioner's father died on 21.04.2000 as on death, the petitioner was minor and he was only 10 years old. According to the petitioner, his mother submitted an application for compassionate ground appointment to the petitioner on 07.10.2000, in that there is also endorsement made by the second respondent, which was also forwarded to the District Collector for appropriate action. **However, in the counter affidavit, the second respondent has categorically denied that there is no such application dated 07.10.2000 submitted by the mother of the petitioner, requesting for compassionate ground appointment to the petitioner.**

11. This Court is not inclined to accept the above contention for the reason that in the representation dated 07.10.2000, it bears the seal of the second respondent office as well as there is an endorsement, which says that the application is forwarded to the District Collector and such endorsement was made by the second respondent himself.

12. It is not in dispute that the petitioner was minor at the time of death of his father in the year 2000 and he has attained majority in the year 2007



and thereafter, he has submitted an application on 21.07.2007. The first respondent has rejected the application of the petitioner on the ground that it has been filed belatedly, after a lapse of 7 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



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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 dismissed."

13. 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 21.04.2000 and the petitioner has attained the age of majority in the year 2007 and submitted an application on 21.07.2007. Hence, the case of the petitioner cannot be considered for appointment under compassionate ground.

14. Hence, this Court is of the considered view that the impugned orders passed by the first respondent dated 04.07.2008 made in Na.Ka.N1-



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36587/2007 and Pa.Mu.(A-1) 33823/2010 dated 26.03.2012 does not warrant any interference by this Court and the same is hereby confirmed.

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15. In the result, this writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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