



W.P.No.11303 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11303 of 2022 and
W.M.P.No.10855 of 2022

Kamalahasan

...Petitioner

-Vs-

1) The Director General of Police,
Dr.Radhakrishna Salai,
Mylapore, Chennai-04.

2) Additional Commissioner of Police,
Traffic Zone, Vepery,
Chennai-600 007.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records impugned proceedings in R.C.No.178595/C.A.1/2018 dated 18.01.2019 passed by 1st Respondent and impugned order in R.C.No.Estt.III/Tr/228/7010/2010 dated 25.03.2019 passed by the 2nd Respondent and quash the same and consequentially direct the 1st respondent to appoint the petitioner on compassionate grounds.



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For Petitioner : Mr.Ali Hassan Khan
For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition has been filed challenging the proceedings of the 1st respondent dated 18.01.2019 and the order passed by the 2nd respondent dated 25.03.2019 thereby rejected the request made by the petitioner seeking compassionate appointment on the demise of his father.

2. The petitioner's father died on 13.05.2005 while he was in service as Head Constable. Soon after his demise, the petitioner's mother requested to appoint the petitioner on compassionate ground. However, one Mrs.Rajeswari also claimed appointment on compassionate ground, as if she is also wife of the petitioner's father. Therefore, both the claims not considered and the petitioner approached the Civil Court in O.S.No.65 of 2000 on the file of the II Additional Family Court, Chennai for declaration declaring that the petitioner's mother is a legally wedded wife of the petitioner's father. It was decreed by judgment and decree dated 25.03.2009.



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Thereafter, the petitioner's mother made claim before the respondents for compassionate appointment to the petitioner. However, it was not considered and rejected by order dated 04.02.2014 on the ground that the claim was belated one. The said order was challenged before this court in W.P.No.12027 of 2014 and this court by order dated 19.09.2017 allowed the writ petition and set aside the impugned proceedings issued by the respondent dated 04.02.2014 and directed to consider the claim for compassionate appointment on merits in accordance with law. The relevant portion of the said order is extracted hereunder:

"6. As rightly contended by the learned counsel for the petitioner the fact that the petitioner had approached the competent authority immediately after the death of her husband in the year 2005 had not been specifically disputed in the counter affidavit. More over from the circumstances explained by the learned counsel for the petitioner, it can be safely inferred that an attempt indeed was made but because of the circumstances as explained above, an application in writing could not be submitted in time. Since the dispute has been resolved by the civil Court in favour of the petitioner in the year 2009, and thereafter, when an application was fairly made renewing their request, the same cannot be treated as one of time barred for the



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purpose of rejecting the claim of the petitioner.

7. In view of the above discussion, this court has no hesitation in allowing the writ petition. Therefore, the impugned proceedings issued in Mu.Mu.No.Pa.Pe-III-Po.Va/228/7010/2010 dated 04.02.2014 passed by the respondent is set aside. There shall be a consequential direction to the respondent to consider the claim of the petitioner for compassionate appointment on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order."

3. In view of the said direction, the petitioner made application for seeking compassionate appointment. However, it was also rejected by an order dated 18.01.2019 passed by the 1st respondent and by order dated 25.03.2019 passed by the 2nd respondent.

4. On perusal of the impugned orders revealed that an application for compassionate appointment was made at a belated stage cannot be for the reason that by lapse of time, the purpose of making such appointment stands evaporated. On perusal of the counter affidavit filed by the second respondent also revealed the same. It is a spurious note that earlier count of



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litigation, the 2nd respondent on the very same request made by the petitioner's mother seeking compassionate appointment. Therefore, this court categorically recorded that the dispute has been resolved by the Civil Court in view of the petitioner's mother in the year 2009. Therefore, the petitioner's mother made application. Therefore it cannot be treated as time barred for the purpose of rejecting the claim of the petitioner. In fact, after the order passed by this Court, the petitioner's mother also filed a contempt petition in Cont.P.No.2514 of 2018 for non-compliance of the order passed by this Court dated 19.09.2017 in W.P.No.12027 of 2014. The 2nd respondent appeared before this Court and stated that the claim of the petitioner is under consideration and appointment on compassionate ground will be made whenever vacancy arises. This court recorded the said submission of the said respondent and closed the contempt petition. After closing of contempt petition, the respondents herein now rejected the claim of the petitioner on the ground of delay.



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5. Therefore, the impugned proceedings in R.C.No.178595/C.A.1/2018 dated 18.01.2019 passed by 1st Respondent and impugned order in R.C.No.Estt.III/Tr/228/7010/2010 dated 25.03.2019 passed by the 2nd Respondent cannot be sustained and liable to be quashed. Accordingly, the impugned proceedings in R.C.No.178595/C.A.1/2018 dated 18.01.2019 passed by 1st Respondent and impugned order in R.C.No.Estt.III/Tr/228/7010/2010 dated 25.03.2019 passed by the 2nd Respondent are quashed. Further, the respondents are directed to appoint the petitioner in any suitable post on the compassionate ground within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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To

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Mylapore, Chennai-04.
- 2) Additional Commissioner of Police,
Traffic Zone, Vepery,
Chennai-600 007.



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G.K.ILANTHIRAIYAN,J.
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