



WEB COPY



WA No.2180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HON'BLE MR.D. KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**WA No.2180 of 2024**

L.S.Ancy Sujitha

...Appellant

versus

1.The Commissioner,  
Greater Chennai Corporation,  
Rippon Building, Chennai-600 003.

2.The Zonal Officer,  
Now Zone-V,  
Greater Corporation of Chennai,  
Basin Bridge Salai, Chennai-600 079.

3.The Secretary Government,  
Municipal Administration & Water Supply Department,  
Fort St.George, Chennai-600 009.

4.Nirmala.

...Respondents



WA No.2180 of 2024

**PRAYER:** Writ Appeal filed against the order of the learned Single Judge in  
WP No.36679 of 2016 dated 02.11.2022.

|                     |                                                                                                                                                              |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For the Appellant   | :Mr.N.Beulah John Selvaraj                                                                                                                                   |
| For the Respondents | :Mr.A.Arun Babu<br>Standing Counsel<br>for Corporation<br>for respondents 1 and 2<br>Mr.S.Yashwanth<br>Additional Government Pleader<br>for third respondent |

### **JUDGMENT**

(Made by the Hon'ble Acting Chief Justice)

This Writ Appeal is filed against the order of the learned Single Judge  
WP No.36679 of 2016 dated 02.11.2022.

2. The father of the appellant was working as Driver in the respondent Corporation. He died in harness on 23.08.1999. At that time of death of his father, the appellant was four years. Therefore, the appellant was not in a position to submit application to the respondent corporation for



WA No.2180 of 2024

appointment on compassionate grounds. On attaining the of age of majority, the appellant submitted an application on 12.11.2013, seeking appointment on compassionate grounds, after a lapse of 14 years from the date of death of the deceased employee. The said application was not considered by the respondent Corporation. Aggrieved by the same, the appellant has filed the writ petition. The writ court by order dated 02.11.2022, has dismissed the writ petition. Challenging the order passed by the writ court, the appellant has filed the present intra court appeal.

3. Learned counsel for the appellant submits that in a similar case in W.A.No.1253 of 2023, the appellate court passed order in favour of the employee and directed the respondent Department to consider the application of the appellant therein for compassionate appointment. Hence, he seeks to set aside the order passed by the writ court and allow the writ appeal.

4. It is seen that in W.A.No.1253 of 2023, the appellant court has observed that there was some family dispute with regard to legal heirship



WA No.2180 of 2024

and due to that, the claims on account of the death of the employee were settled to the appellant therein only in the year 2013. Thereafter, the appellant therein approached the authority concerned for the compassionate appointment. Based on that, the appellate court has directed the authority concerned to consider for compassionate appointment.

5. In the present case on hand, at the time of death of the employee, the appellant was aged four years. On attaining the age of majority, he submitted application seeking employment on compassionate grounds after a lapse of 14 years.

6. A catena of judgments have been passed by this Court as well as the Hon'ble Supreme Court relating to consideration of appointment on compassionate grounds. The Hon'ble Supreme Court as well as this Court has clearly held that the Scheme has been framed for the purpose of providing employment to the legal heirs of the deceased employee for giving immediate financial support at the time of death of the deceased employee. Therefore, it is imperative to rely on the decision of the Hon'ble Supreme



WA No.2180 of 2024

Court in the case of ***Government of India and another v. P.Venkatesh*** reported in [(2019)15 SCC 613], wherein the Hon'ble Supreme Court has

held as follows:

*“8. This ‘dispose of the representation’ mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quickor easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.*

*9. ...*

*10. Bearing in mind the above principles, this Court held: (Umesh KumarNagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)*

*“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be*



WA No.2180 of 2024

*exercised at any time in future.  
The object being to enable the family  
to get over the financial crisis which  
it faces at the time of the death of the  
sole breadwinner, the compassionate  
employment cannot be claimed and  
offered whatever the lapse of time  
and after the crisis is over.”*

7. Following the aforesaid Judgment of the Hon'ble Supreme Court, this Court also had an occasion to consider a similar issue, in which one of us (ACJ) was a Member, in W.A.No.1749 of 2019 (***Sudhanthira Devi vs. The State of Tamil Nadu and others***), decided on 03.09.2019, holding that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

8. The aforesaid decision also supports the contention of the respondent that the appellant being a minor at the time of submitting the application, he cannot be entitled for employment under compassionate grounds. The relevant portion of the judgment is extracted hereunder:

*37. Though learned counsel for the writ petitioner submitted that under the existing*



WEB COPY



WA No.2180 of 2024

*scheme, and the Government orders issued from time to time, on the aspect of considering the right of the minors, at the time of death of breadwinner, in making an application for employment assistance, on attaining majority, there are no rules or guidelines restricting the period, for consideration of such application and further submitted that what is relevant to be considered by the authorities, is whether the penury of the family continued to exist, or not, even after a long time and it should be the only objective factor, to subserve proper implementation of the scheme and further contended that when the scheme does not contemplate that on the date of death of the employee, the applicant should be an adult member irrespective of the period prescribed for submission of the application, this Court is not inclined to accept the said submissions, for the reason that even if indigent circumstances of the family continued to exist for a long time, the scheme of employment assistance on compassionate grounds and modified by various Government orders issued from time to time, makes it clear that though indigent circumstance is one of the <http://www.judis.nic.in> factors to be considered, while examining the eligibility of an applicant to seek for employment assistance, equally, the other requirement under the Government orders issued from time to time, that the application should be submitted within three years from the date of death, cannot be ignored. A member of the family, otherwise eligible, on the date of death of the employee, has to submit the*



WA No.2180 of 2024

*application within three years from the date of death or in a given case, if he was a minor at the time of death aged between 15 to 18 years, he can also submit an application, within three years from the date of death, on attaining majority.*

*38. Needless to state that for entry into any service in the State, the minimum age is 18 years, and no minor can be appointed to any service. Therefore, he cannot make any application for appointment to any post in service and no post can be kept vacant for him, till he attains majority. Posts which fall vacant have to be filled up as per the recruitment rules. Employment assistance on compassionate appointment, is only a concession, extended to an eligible member of the family, to apply for a suitable post, in the service, in which, the employee/Government servant died in harness and it is not a right, which can be exercised by a minor on attainment of majority.*

9. Further, the Honourable Full Bench in Paragraph No.13 of the Judgment dated 11.03.2020 in W.P.(MD) No.7016 of 2011 has held 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*



WA No.2180 of 2024

*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.”*

10. In the present case, the father of the appellant died on 23.08.1999 and the appellant has submitted the application seeking employment under compassionate grounds on 12.11.2013, after a lapse of 14 years from the date of death of deceased employee. Hence, the decision rendered by the Hon'ble Supreme Court in the case of **P. Venkatesh** cited supra as well as the decision rendered by the Full Bench of this Court cited supra squarely applies to the facts of the present case. In the decision of the Full Bench of this Court, it is clearly held that representations submitted by the legal heirs of the deceased employee beyond a period of three years seeking employment on compassionate grounds cannot be considered.



WA No.2180 of 2024

WEB COPY

11. Therefore, in view of the above settled legal position, the claim of the appellant made beyond the prescribed period of three years cannot be entertained. Accordingly, the impugned order in W.P.No.36679 of 2016 dated 02.11.2022 passed by the writ court does not warrants any interference and accordingly the writ appeal is dismissed. There shall be no order as to costs.

J.)

(D.K.K., ACJ.) (P.B.B.,

19.08.2024

Index : Yes/No  
Neutral Citation : Yes/No  
mrn



WEB COPY



WA No.2180 of 2024

**THE HON'BLE ACTING CHIEF JUSTICE**  
**and**  
**P.B. BALAJI, J.**

**(mrn)**

**WA No.2180 of 2024**



WEB COPY



*WA No.2180 of 2024*

**19.08.2024**