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WA No.2201 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.2201 of 2022

S.Logeshwaran : Appellant

Vs

1.The Commissioner of Sugars

No.690, Anna Salai

Nandanam Chennai-35

2.The Managing Director

Tirupattur Co-operative Sugar Mills

Kethandapatti, Tirupattur Taluk,

Vellore District

3.The Special Officer

Tirupattur Co-operative Sugar Mills

Kethandapatti, Tirupattur Taluk,

Vellore District

: Respondents

PRAYER: Writ Appeal filed against the order of the learned Single Judge in WP No.15451 of 2018 dated 15.03.2019.

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For the Appellant

:Mr.C.Prabakaran

For the Respondents

: Mrs.Geetha Thamaraiselvan
Special Government Pleader,
for the first respondent

Mr.R.Neethiperumal,
for respondents 2 and 3

JUDGMENT

(Made by *D.KRISHNAKUMAR, J.*)

This Writ Appeal is filed against the order of the learned Single Judge in WP No.15451 of 2018 dated 15.03.2019.

2. Brief facts of the case:

The father of the appellant died in harness on 19.01.2006. According to the appellant, as he was minor then, the mother of the appellant has submitted a representation in the year 2008. The said application was submitted within a period of three years from the date of the death of the employee. However, the application subsequently sent by the mother of the appellant on 11.02.2011 was taken for consideration and rejected vide



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proceeding dated 03.06.2016, on the ground that the application was not submitted, within a period of three years from the date of death of the deceased employee. Challenging the said order, the appellant has filed the instant writ petition. The writ court, by order dated 15.03.2019, had dismissed the writ petition with the following observations:

This being supra of the order, now after a lapse 12 years from the date of death of the deceased employee, the claim of the writ petitioner cannot be considered.

3. Challenging the said order, the appellant has filed the present writ appeal.

4. Learned counsel for the appellant submits that the appellant's mother had submitted an application on 11.02.2008 to the Department, within a period of three years and the said application was taken on file by the respondent herein and thereafter, the mother of the appellant has submitted another application on 11.02.2011 and the same was rejected by the respondent on the ground that the said application was not submitted within a period years from the date of death of the deceased employee.



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Without considered the said aspect the writ court has dismissed the said writ petition. Hence, he seeks to allow the writ appeal.

5. Learned counsel for the respondents reiterated the submissions made before the learned Single Judge. Hence, he seeks to dismiss the writ appeal.

6. Heard the parties and perused the materials available on record.

7. It is seen that though the learned counsel for the appellant has submitted that the mother of the appellant has submitted the application seeking employment for her son in the year 2008, in paragraph 8 of the counter affidavit, it is stated that no acknowledgment was filed by the appellant for the said application.

8. It is an admitted fact that the appellant was a minor at the time of submitting the application by the mother of the appellant on 11.02.2011. The rejection order was passed by the respondent on 03.06.2016 and the



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same was challenged before this Court in the writ petition in the year 2018 and thus there is a delay of more than 12 years in filing the writ petition from the date of death of the deceased employee.

9. 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 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



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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 Kumar Nagpal 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 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.”

10. Following the aforesaid Judgment of the Hon'ble Supreme Court, this Court also had an occasion to consider (in which one of us (DKKJ) is a



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Member of the judgment), in W.A.No.1749 of 2019 (***Sudhanthira Devi vs.***

The State of Tamil Nadu and others), by Judgment dated 03.09.2019, following the decisions of the Hon'ble Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

11. 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 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



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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 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



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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.

12. 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 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.”



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13. In the present case, it is seen that the mother of the appellant has submitted the application seeking employment for her son under compassionate grounds after a lapse of 5 years from the date of death of deceased employee, and at the time of submitting the application, the appellant was a minor. Further, the writ petition was filed after a lapse of 12 years from the date of death of the 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.

14. Further, in ***Sudararadevi Case*** in Writ Appeal No.1749 of 2019, the Division Bench, has considered in detail and passed an order by holding



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that a minor at the time of submitting the application, cannot be entitled for employment under compassionate grounds.

15. In the case on hand, admittedly, the father of the appellant died on 19.01.2006 and the appellant's mother had submitted application for compassionate appointment only on 11.02.2011, nearly after a lapse of five years and even at that time, the appellant was a minor. Therefore, in view of the above settled legal position, the claim of the appellant made beyond the prescribed period of three years and further even at that time, he was still a minor, cannot be entertained and it deserves to be rejected. Accordingly, the impugned order does not warrant any interference at the hands of this court.

16. On considering the facts and circumstances of the case and the decisions cited supra, we are of the view that nothing warrants to interfere with the order dated 15.03.2019 passed by the writ court and accordingly the writ appeal is dismissed. There shall be no order as to costs.



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[D.K.K., J.] [K.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
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and
K.KUMARESH BABU, J.

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