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W.A.No.2811 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 10.06.2024**

DELIVERED ON : 01.07.2024

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.A.No.2811 of 2022

S.Suresh

... Appellant

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The District Collector,
Thanjavur Coimbatore Nagapattinam Highway,
New Collector Office, AVP,
Azhagammal Nagar, Thanjavur - 613 010.

3.The Tahsildar,
Kumbakkonam.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.09.2022 in W.P.No.9896 of 2016.

For Appellant : Mr.M.Gnanasekar
For Respondents : Mr.V.Manoharan,
Additional Government Pleader for R1 to R3

JUDGMENT



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(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra Court appeal has been filed as against the order of the Writ Court dated 28.09.2022 made in W.P.No.9896 of 2016, in and by which the challenge made to the order of rejection of the claim of the writ petitioner for compassionate appointment in proceedings dated 15.05.2014, was dismissed by this Court.

2. The writ petitioner is the appellant herein. The father of the appellant was employed as Village Assistant in Aasur Village and he died on 12.08.1997, while he was in service due to an accident. At the time of demise of his father, the appellant was a minor and therefore, his mother made an application for compassionate appointment on 25.05.1998. According to the petitioner, her mother was not given compassionate appointment till 2004 and therefore, she applied compassionate appointment to the appellant on 26.05.2004. Since, there was no action, the appellant submitted a detailed representation dated 05.05.2024 seeking compassionate appointment. The second respondent, vide order dated 15.05.2014, has rejected the application on the ground that compassionate ground appointment shall be granted only to the first applicant and no subsequent



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application or alternative application cannot be entertained. Challenging the rejection order passed by the second respondent, the appellant has filed the writ petition. The Writ Court dismissed the writ petition both on merits as well as on the ground of laches. Aggrieved by the order of the Writ Court, the present appeal has been filed.

3. Mr.M.Gnanasekaran, learned counsel appearing for the appellant contended that there is no delay in filing the writ petition, as the writ petition was filed in March 2016, challenging the order of rejection dated 15.05.2014 passed by the second respondent. It is contended that the application submitted by the mother of the appellant on 25.05.1998 was not considered by the respondents till the year 2004 without passing any orders and she was also directed to submit application seeking appointment to the appellant by a memo dated 10.09.2004, on completion of 18 years of age and only based on the directions of the third respondent, the mother of the application has submitted the application dated 26.05.2004 seeking appointment for the appellant and therefore, the impugned order of rejection passed by the second respondent is misconceived and the Writ Court has failed to consider these aspects in proper perspective and prays for interference.



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4.Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents 1 to 3 has drawn the attention of this Court to the counter affidavit filed by the second respondent and would submit that the mother of the applicant submitted the application seeking compassionate appointment on 25.05.1997 and it was rejected in the year 2004, as she had not met the eligibility requisites. It is further contended that the appellant is not eligible for compassionate appointment as the application was submitted beyond the period of three years from the date of death of the deceased employee and there is no provision to entertain second application seeking appointment on compassionate ground and therefore, the reason for rejection is in consonance with the terms and conditions of the scheme of compassionate appointment. The learned Additional Government Pleader further contended that the deceased employee died on 12.08.1997 and now almost 27 years had lapsed and the appellant' mother submitted the second application in the year 2004 on the appellant attaining the age of majority and by that time, the period of three years had expired and now at this length of time, the Scheme cannot be expected in favour of the appellant/writ petitioner and the Writ Court has rightly held as against the writ



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petitioner/appellant and prayed for dismissal of the writ appeal.

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5. This Court has considered the rival submissions and also perused the materials available on record.

6. It is not in dispute that the appellant is the son of the deceased, who died in an accident on 12.08.1997, while he was in service. Since the appellant was a minor at the relevant point of time, the mother of the appellant filed an application dated 25.05.1998 seeking compassionate appointment for her. According to the appellant/writ petitioner, the application submitted by the mother of the appellant was not considered till the year 2004, till he attained majority. However, it is stand of the respondents that the application submitted by the mother was rejected in the year 2004. Be that as it may, the mother of the appellant submitted the application for the second time on 26.05.2004 seeking compassionate appointment to her son, namely the appellant/writ petitioner, followed by a representation dated 05.05.2014, which came to be rejected vide impugned order dated 15.05.2014.



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7. The object of giving appointment on compassionate ground is to enable the family of the deceased to tide over the sudden crisis on the untimely death of the deceased. There is a consistent line of authority of the Hon'ble Supreme Court on the principle that appointment on compassionate grounds is given only for meeting the immediate unexpected hardship which is faced by the family by reason of the death of the bread earner. The Hon'ble Supreme Court in ***Umesh Kumar Nagpal vs. State of Haryana [(1994) 4 SCC 138]***, the Honourable Supreme Court has held as follows:

“The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.”

8. In ***Bhawani Prasad Sankar vs. Union of India and Others [2011 (3) LLN 37 (SC)]***, the Honourable Supreme Court has held as follows:

“(i) Compassionate employment cannot be made in the absence of Rules or Regulations issued by the Government or a Public Authority. The request is to be considered strictly in accordance with the governing



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scheme, and no discretion as such is left with any authority to make Compassionate Appointment dehors the Scheme.

(ii) ...

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be."

9. The Government of Tamilnadu has also issued a Government Order in G.O.(Ms.)No.18, Labour and Employment (Q1) Department dated 23.01.2020, framing comprehensive guidelines for appointment on Compassionate Ground. The said Government Order prescribes that the application for compassionate ground appointment may be submitted within 3 years from the date of death of the Government Servant. Further it has been specifically indicated that if the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from the another legal heir of the deceased Government Servant, subject to conditions prescribed for compassionate ground appointment. Therefore, only on the deceased on the first applicant, application from another legal heir can be



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entertained for compassionate appointment.

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10. In the case on hand, initially the application for compassionate appointment was submitted by the mother of the appellant on 25.05.1998, i.e within 3 years from the death of the deceased and the same was rejected in the year 2004 itself, as stated by the respondents. Though the appellant allege that the application submitted by her mother was kept pending till 2004, the undisputed fact remains that the mother of the appellant has submitted the second application dated 26.05.2004, seeking appointment on compassionate ground to the appellant. Unless the first applicant died pending consideration of the application, the second application by another legal heir cannot be entertained, in the light of G.O.Ms.No.18 dated 23.01.2020 and therefore, the order of rejection dated 15.05.2014 passed by the second respondent cannot be found fault with.

11. Whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such



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claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.

12. In ***Government of India and another v. P.Venkatesh [(2019) 15 SCC 613]***, the Honourable 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 quick or 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 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.”

13. Admittedly, in the instant case, the order of rejection is dated 15.05.2014 and the writ petition came to be filed by the petitioner in the year 2016 i.e., nearly after 19 years from the date of death of the deceased and now its almost 26 years had lapsed. The family of the deceased was able to survive all these years and at this distant point of time, if the authorities are



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directed to grant compassionate ground appointment, the very object and purpose of the Scheme of Compassionate Appointment would be defeated and it would also be against the dictum laid down by the Hon'ble Supreme Court in the aforecited decisions. The respondents have rightly rejected the application of the appellant/writ petitioner on the ground that second application cannot be entertained and the Writ Court has rightly dismissed the writ petition both on merits and delay. This Court finds no reason to interfere with the order of the Writ Court and finds no merit in this writ appeal.

14. In the light of the reasons assigned above, this Writ Appeal stands dismissed. No costs.

(D.K.K.J.) (K.B. J.)
01.07.2024

Internet: Yes/No
Index : Yes/No
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To
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State of Tamil Nadu, Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.



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