



W.P(MD)No.3581 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.3581 of 2024

E.Saratha

... Petitioner

Vs.

1.The Principal District Judge,
The Principal District Court,
Tirunelveli District.

2.The Principal District Munsif(FAC),
Ambasamuthiram,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the returned application by the first respondent in proceedings in A.No.756/2023. A.I.R.No.19489/2023 dated 22.09.2023 in order dated 17.11.2023 with D.No.21034 dated 20.11.2023 and to quash the same and direct the respondents to accept the petitioner's application returned on 17.11.2023, as per re-submission application and consequently direct the 1st and 2nd respondents to provide appointment to the petitioner's son on compassionate grounds based on the qualification, as per the communication notice send by the second respondent to the petitioner



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in D.No.193 dated 07.03.1997 and D.No.541/1997 dated 08.08.1997
within a time frame to be fixed by this Hon'ble Court.

For Petitioner :Mr.F.Deepak

For Respondents :Mr.T.S.Mohammed Mohideen,
Standing Counsel

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Mr.T.S.Mohammed Mohideen, learned Standing Counsel, takes
notice for the respondents.

2. The petitioner has filed this writ petition to set aside the order
passed by the first respondent returning the application made by the
petitioner seeking compassionate appointment to her son and
consequently, to direct the respondents 1 and 2, to provide
appointment to the petitioner's son on compassionate ground.

3. The case of the petitioner is that her husband was working as
an Office Assistant in the second respondent Court. On 11.09.1996,
the petitioner's husband died in harness while he was in service.
At that time, the petitioner's son was aged about 10 months.
Therefore, the petitioner has made a representation before the



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been issued to the petitioner, calling upon the petitioner to furnish relevant particulars. Though it is submitted that the same has been re-submitted, there is no subsequent action being taken by the petitioner to proceed with the said application. Now, after a lapse of fifteen years, on 06.06.2012 and on 22.09.2023, the petitioner has made a representation to the respondents to provide employment to her son on compassionate ground.

6. First of all, compassionate appointment is being provided under the Scheme enumerated by the Government for providing job to the families, who have been suffered due to the sudden demise of the employee, who is the sole breadwinner of the family and to provide financial support to the family to come out of the indigent circumstances. Even though the petitioner's initial application was returned in the year 1997, the present application has been filed on 22.09.2013, after a lapse of 26 years, seeking compassionate appointment to her son.

7. In the decision of the Hon'ble Supreme Court in ***the Government of India and Ors. vs. P.Venkatesh in Civil Appeal Nos.2425 of 2019, dated 01.03.2019***, it is clearly held that after a lapse of more than twenty years, the application for compassionate



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appointment cannot be considered, which is contrary to the Scheme.

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8. In ***Sudhanthira Devi vs. the State of Tamil Nadu rep. by its Secretary, Education Department and others*** reported in **CDJ 2019 MHC 4676**, the Hon'ble Division Bench of this Court, has held as follows:

“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 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



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various Government orders issued from time to time, makes it clear that though indigent circumstance is one of the 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.

....

39. Thus, for the reasons stated supra, we are of the view that continuation of penury or indigent circumstances of the family, alone is not the factor to be considered by the department, while examining the request of an applicant for appointment on compassionate grounds. Reading of the Government orders shows that scheme can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide employment assistance as and when the son or daughter of the deceased employee attains majority. Under the scheme, the department is not obligated to keep any post vacant, till the applicant attains majority or to consider his candidature on attaining



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majority. Scheme only enables those who are eligible and satisfy all the eligibility criteria including age, within three years from the date of death.

9. In the case on hand, the petitioner's earlier application seeking compassionate appointment has been returned in the year 1997 and thereafter, the petitioner kept silence for a period of 26 years without taking any steps.

10. Therefore, we are of the view that there is no ground for considering the application made by the petitioner after a period of 26 years from the date of death of her husband and the said the application is liable to be rejected on the ground of delay and laches and the same has been rightly rejected by the first respondent. Therefore, we are not inclined to entertain this writ petition as there is no merit in this writ petition.

11. In the result, this writ petition stands dismissed. No Costs.

[D.K.K., J.]

[R.V., J.]

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Neutral Citation: Yes / No
Index : Yes / No

PM



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