



W.P.(MD)No.6619 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.6619 of 2024
and WMP(MD)No.6176 of 2024

S.Alagar

... Petitioner

Vs.

1. The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai - 02.

2. The Deputy Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai - 02.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in k/ep/15/004349/2019 dated 16.12.2020 and quash the same as illegal and unconstitutional and consequently direct the



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respondents to appoint the petitioner on Compassionate Ground.

For Petitioner : Mr. A.Vadivel

For Respondents : Mr.S.Vinayak
Standing Counsel

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the 2nd respondent in k/ep/15/004349/2019 dated 16.12.2020 and consequently to direct the respondents to appoint the petitioner on Compassionate Ground.

2. Heard Mr.A.Vadivel , learned counsel for the petitioner and Mr.S.Vinayak, learned Standing Counsel for the respondents.

3. The petitioner's father, who was working as a Road Gand (Salai Paniyalar) died on 22.06.2012 while he was in service. At the time of his father's death, the petitioner was 12 years. After attaining majority, the petitioner had given a representation to the respondents on



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27.11.2019 seeking for compassionate appointment as his family is in indigenous circumstances. But the said representation was rejected by the respondents stating that the petitioner has not filed the application within three years from the date of death of his father and it has been filed after 8 years of the death of the father. Hence, the present writ petition has been filed.

4. The learned counsel for the petitioner submitted that the petitioner was minor at the time when his father died and he attained majority on 06.04.2019. The petitioner's application has been filed on 27.11.2019 after he attained majority. Even if the petitioner was minor there could not have been any hurdle for filing an application, even though the petitioner ought to have been attained the age of majority at the time of getting an appointment. In fact the Government letter in G.O.Ms.No.33 Labour Welfare and Skill Development (A1) Department, dated 08.03.2023 would also clarify the above point. The relevant portion of the same is extracted hereunder:



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"6.Age Limit.-

(1) ...

(2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment.

Provided that appointment shall not be provided unless the applicant completes eighteen years of age."

5. The learned Standing counsel for the respondents submitted that the father of the petitioner died on 22.06.2012, however, the first application submitted by the petitioner only on 27.11.2019, which is beyond the limitation of 3 years and hence, the same was rejected. Hence, the rejection order does not require any interference.

6. It seems the petitioner has given his application immediately after he attained majority. In fact the rejection order has been passed on 16.12.2020. Reliance was placed on the decision reported in W.P(MD) No.8007 of 2020 wherein it is held as under:

"7. Admittedly, at the time of death of the petitioner's father in 1995, he was only 14 years old, thereafter, he attained majority only in 1999. Therefore, immediately on 30.08.2000, he filed an



application and the application dated 30.08.2000 filed by the petitioner is admitted by the respondent. Therefore, there could be no reason for rejecting the earlier application filed by the petitioner on 30.08.2000 , which is immediately after attaining majority. As admitted by the respondents, the petitioner was only 14 years of old at the time of his father's death. Therefore, he cannot be expected to make application. After he made an application in 2000, he had to wait for several years and in between several applications/reminders have been made and one such application was made to the first respondent/District Collector on 28.08.2006, the same having been considered by the 2nd respondent on 29.08.2006 and the contents of the same has already been extracted, where the 2nd and 3rd respondents have stated that, after getting instructions from the Government, the request of the petitioner would be considered. Even thereafter, for several years nothing was forthcoming. However, the petitioner keep on representing to the respondents by sending application after application or representation after representation or reminder. Now, after 20 years, the present order has been passed dated 20.03.2020 stating that the application filed by the petitioner itself is belated i.e. beyond three years period, therefore, the same cannot be considered.

8. On a perusal of the said reason cited in the impugned order, this Court is of the view that, the said reason now cited after 20 years cannot be countenanced, because, the compassionate appointment scheme itself is against the regular rules and procedures for recruitment/appointment of Government Servants, where in violation of regular rules and procedure, compassionate appointment are being made in order to bail out the family which is in penurious and indigent circumstances, because of the sudden demise of the head of the family or the breadwinner of the family. When that being the position, an young boy of 14 years, who has been left out by his father, when he died in the year 1995 cannot be expected to make an application immediately. However, the boy became major after three years i.e. in 1999. Thereafter, immediately, the petitioner had made an application in August 2000 and the said application considered to be the earliest one as admitted by the respondents. Therefore, the respondents could have acted upon on the said application immediately. They have not seems to have acted upon the said application of the year 2000 and in the year 2006, when second application was given to the 1st respondent, the same had been responded by the second and third



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respondents stating that, after getting necessary instructions from the Government, the request of the petitioner would be considered and even thereafter, for several years, nothing was forthcoming, despite several subsequent communications, requests/representations/reminders having been sent by the petitioner and after 20 years, at last, now the impugned order has been passed stating the aforesaid reason that, the application filed by the petitioner was beyond time limit. This kind of attitude on the part of the respondents employer cannot be appreciated and accepted by this Court. The Government, being a model employer, must have a vision for all social welfare measures, which include the scheme of compassionate appointment which is being envisaged and adopted and is in progress in Government employment, for the aforesaid reason of bailing out the family from indigent circumstances, because of the death of the head of family. When that being the position, when an application was filed 20 years back, no disposal has been given and when second application was given some years after, which was also taken note of, but, no final decision has been taken for 20 years. Now, the reason has been invented and has been stated by citing so many government orders, which have been issued definitely after the death of the father of the petitioner as well as the application of the petitioner. Therefore, this Court is not able to accept the reasons cited in the impugned order and the defence taken by the respondents in the counter affidavit.”

7. Since the facts involved in the above case is also similar to the condition of the petitioner, I feel that the impugned order is liable to be set aside. Accordingly the impugned order of the 2nd respondent in k/ep/15/004349/2019 dated 16.12.2020 is set aside. The 2nd respondent shall re-consider the application made by the petitioner for compassionate appointment in a holistic manner and pass orders afresh in accordance



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with law as early as possible.

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8. With the above direction, the writ petition is **disposed of**. No

Costs. Consequently, connected miscellaneous petition is closed.

12.06.2024

NCC : Yes/No

Index : Yes/No

PJL

To

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R.N.MANJULA, J.

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