



W.P.(MD)No.11724 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.11724 of 2024

Premkumar

... Petitioner

vs.

1.The Deputy Registrar of Co-operatives,
Uthamapalayam Circle,
Uthamapalayam,
Theni District.

2.The Administrator,
A-1468, Theni District Colonel John Benny Kuvik
Consumer Co-operative Wholesale Stores Limited.,
170, Paramasivan Kovil Street,
Bodinayakanur,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent dated 27.02.2024 and quash the same and consequently, directing the respondents to appoint the petitioner in appropriate post in the second respondent society within the time stipulated by this Court.

For Petitioner :Mr.C.Jeganathan

For Respondents :Mr.K.Selvaganesan,
Additional Government Pleader



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ORDER

Mr.K.Selvaganesan, learned Additional Government Pleader takes notice for the respondents.

2. This writ petition has been filed by the petitioner challenging the impugned order passed by the second respondent, dated 27.02.2024 and to direct the respondents to appoint the petitioner in a suitable post in the second respondent society within a stipulated period.

3. The case of the petitioner is that the petitioner's father, who was working as a Salesman in the respondent Society died on 13.12.2013 while he was in service. The petitioner has applied for compassionate appointment. However, his application is rejected stating that the application has been made beyond the mandatory period of three years.

4. The learned counsel for the petitioner submitted that the originally, the petitioner's brother Sivakumar has sent an application seeking compassionate appointment on 18.05.2015 ie., within three years from the date of death of his father and on which, no action has been taken so far.



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5. The learned Additional Government Pleader submitted that the petitioner's brother submitted his application on 18.05.2015 seeking compassionate appointment, for which, action has been taken requiring him to produce certain documents. But, he did not come forward to produce the documents and now, the petitioner has filed a fresh application on 20.01.2024 seeking compassionate appointment for himself.

6. According to the learned counsel for the petitioner, the elder son of the deceased employee, who submitted the earlier application got married and he is not helpful to the parent's family and at the time of death of the employee, the petitioner was a minor and therefore, he has filed the application in the year 2024.

7. All along the condition that the application for compassionate appointment should be submitted within a period of three years was in force. Earlier, the above time limit was prescribed in G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995. Later, superseding the same, subsequent G.O.Ms.No.18, Labour and



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Employment (Q1) Department, dated 23.01.2020 has been issued.

Hence, the limitation of three years started from the year 1995.

Therefore, now it cannot be stated that the new Government Order only stipulates the three years period.

8. The fact remains that the Department has not chosen to reject the earlier application submitted by the petitioner's brother on the ground that he has not come forward to submit the required documents and the file was kept pending. Now, the petitioner has filed a fresh application to substitute himself for giving the appointment. So, the petitioner's application can be considered as a substituted application and it cannot be treated as a fresh one.

9. Though in the fitness of things, it cannot be proper to file an application after several years, it is also not proper on the part of the second respondent to keep the file pending for several years without passing orders. For the said limited fact, the impugned order is liable to be set aside.



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10. In the result, this writ petition is allowed and the impugned order of the second respondent, dated 27.02.2024, is set aside. The second respondent is directed to consider the application of the petitioner and pass appropriate orders by allowing the petitioner to get substituted in the place of his brother by considering the fact that the petitioner's brother has got no objection. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No Costs.

05.06.2024

NCC: Yes/No
Index : Yes/No
PM

To

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R.N.MANJULA, J.

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