



W.P.(MD)No.13914 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.13914 of 2022 &
W.M.P.(MD)No.9903 of 2022

S.Sevuagamoorthi

... Petitioner

vs.

1.The Director,
Municipal Administration,
Chepauk, Chennai - 5.

2.The Commissioner,
Karaikudi Municipality,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.2601/2019/H2 dated 28.01.2022, quash the same and consequently direct the respondents to provide an appointment to the petitioner in any suitable post on compassionate grounds.

For Petitioner : Mr.S.Balaji

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate for R1
Mr.D.Venkatesh for R2



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ORDER

Heard Mr.S.Balaji, learned counsel appearing for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the first respondent and Mr.D.Venkatesh, learned counsel appearing for the second respondent.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order of the second respondent in Na.Ka.No.2601/2019/H2 dated 28.01.2022, quash the same and consequently direct the respondents to provide an appointment to him in any suitable post on compassionate grounds.

3. The petitioner's father who worked as a Sanitary Worker in the second respondent Municipality died on 21.11.2006 while in service. Subsequently, the petitioner has made an application to the respondents on 11.07.2019 seeking appointment on compassionate grounds. However, the same was rejected vide the impugned order dated



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28.01.2022 stating that the petitioner has not filed the application within a period of three years from the date of death of his father *i.e.*, on or before 21.11.2009. Challenging the same, the writ petition is filed.

4. Mr.S.Balaji, learned counsel appearing for the petitioner submitted that the petitioner's mother pre-deceased the petitioner's father and at the time of death of the petitioner's father, the petitioner was a minor and he did not have any guardian to make an application in time.

5. Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the first respondent submitted that the petitioner's father had married another woman after the death of his first wife *i.e.*, the petitioner's mother and the second wife of the petitioner's father has also stated no objection for grant of appointment to the petitioner on compassionate grounds. However, she did not choose to file any application on behalf of the petitioner within three years from the date of death of the petitioner's father.



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6. Admittedly, the petitioner was a minor at the time when his father died. The second wife of his father for the reasons known to her did not choose to file an application seeking appointment on compassionate grounds either for her or on behalf of the petitioner. Even though there cannot be any hard and fast rule to condone the delay in filing the application for appointment on compassionate grounds, considering the fact that the petitioner did not have any living guardian at the time when his father died. That was the sole reason why he did not place any application within the time. Hence, I feel that on compassionate grounds, the petitioner's application can be re-considered.

7. The very object of prescribing the condition that the person who is applying for appointment on compassionate grounds should have attained majority is for the reason that an employment contract cannot be accepted by a minor. In view of the extraneous situation involved in this case, I feel it is appropriate for the second respondent to re-look into the matter by considering the holistic situation that was prevailing when the petitioner's father died.



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8. In view of the above observations, the writ petition is **disposed of** and the impugned order of the second respondent in Na.Ka.No.2601/2019/H2 dated 28.01.2022 is set aside and the second respondent is directed to re-consider the issue in a holistic manner and pass orders afresh within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

06.06.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

The Director,
Municipal Administration,
Chepauk, Chennai - 5.



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R.N.MANJULA, J.

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