



W.P.(MD).No.20355 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 05.12.2024

ORDER PRONOUNCED ON : 11.12.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.20355 of 2024
and WMP(MD).No.17262 of 2024**

V.Kalainesan

....Petitioner

Vs

1.The Government of Tamil Nadu
Representation by its Secretary
Department of Health and Family Welfare
Secretariat, Chennai -9

2.The Director
The Directorate of Medical Education
Kilpauk, Chennai

3.The Dean
Government Rajaji Hospital
Madurai

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref.No.49471/E2/4/2014 dated 04.02.2016 on the file of the respondent No.2 and quash the same as illegal and consequently directing the respondents to appoint the petitioner in any suitable post on the basis of his educational qualification on compassionate ground with respondent No.3's Hospital with all consequential benefits within the time stipulated as fixed by this Court.



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For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed seeking to quash the order passed by the second respondent dated 04.02.2016 wherein the request of the petitioner for grant of appointment on compassionate ground has been rejected.

(A)Facts that are not in dispute are as follows:

2.The petitioner's father who was working as a Driver at Government Rajaji Hospital, Madurai had passed away on 05.02.2002 while he was in service.

3.The wife of the deceased employee had given a request seeking compassionate appointment on 22.01.2005. The said request was rejected by the authorities on 07.06.2012. This order was not challenged by her and the same has attained finality.

4.The wife of the deceased employee has given a fresh application on 24.12.2012 seeking employment for her son, namely the petitioner. At the time of giving such application, the petitioner was 22 years old. The present impugned order has been passed on 04.02.2016 rejecting the request for



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appointment of the writ petitioner on compassionate ground. The said order is put to challenge in the present writ petition which has been filed on 22.08.2024.

(B)Contention of the counsels appearing on either side are as follows:

5.The learned counsel for the writ petitioner herein had contended that after the death of petitioner's father, his father was removed from service on 12.12.2002 and therefore, his mother had approached the Administrative Tribunal challenging the order of removal and for disbursement of terminal benefits. Even after getting favourable order from the Tribunal, the petitioner's mother was forced to file W.P.No.37757 of 2004 for implementing the order of Tribunal. Therefore, there was some delay in seeking compassionate appointment.

6.The learned counsel appearing for the petitioner had further contended that the first application presented by his mother was within a period of 3 years from the date of death of his husband. However, the authorities have taken 7 years time to reject the said application on the ground that she is over-aged. Within 7 months from the date of rejection, a fresh application has been filed in his name and the authorities have taken 4 years time to reject the said application. Therefore, there is no delay on the part of the writ petitioner in filing an application to seek compassionate



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appointment.

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7.The learned counsel for the petitioner had further contended that the petitioner's father was a basic servant and after his death, the mother had to approach the Court to get terminal benefits. Therefore, the family is in indigent circumstances. The said fact should have been considered by the authorities in granting compassionate appointment.

8.Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that the petitioner's father had passed away on 05.02.2002 and at the relevant point of time, the petitioner was a minor aged 11 years. The present application seeking compassionate appointment has been filed by the son after a period of 10 years from the date of death of the employee. Even though the petitioner has attained the age of majority in the year 2005 itself, the application was presented only in 2012. He had further contended that though the impugned order was passed in the year 2016, the present writ petition has been filed after a period of 8 years seeking to challenge the said order. Therefore, the writ petition has to be dismissed on the ground of laches.

9.I have considered the submissions made on either side and perused the material records.

(C)Discussion:

10.It is not in dispute that the application filed by the wife of the



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deceased seeking compassionate appointment was rejected on 07.06.2012 and it has attained finality. The writ petitioner who is the son of the deceased employee has presented his application only on 24.12.2012 after a period of 10 years from the date of death of the employee. The application has not even been filed within a period of three years from the date of attaining majority. That apart, the impugned order rejecting the compassionate appointment has been passed on 04.02.2016, but the writ petition has been filed on 22.08.2024, after a period of 8 years, challenging the said order. Therefore, it is clear that the writ petition is liable to be rejected primarily on the ground that the application seeking compassionate appointment was presented beyond three years, not only from the date of death of the employee, but also from the date of attaining majority. That apart, the writ petition having been filed 8 years after the impugned order, is liable to be rejected on the ground of laches also, especially when no proper explanation has been given for the delay.

11.In view of the above said deliberations, there are no merits in the writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11 .12.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No



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The Government of Tamil Nadu
Department of Health and Family Welfare
Secretariat, Chennai -9

2.The Director
The Directorate of Medical Education
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3.The Dean
Government Rajaji Hospital
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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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