



W.P.(MD) No.5294 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.5294 of 2017

and

W.M.P.(MD) Nos.4243 & 4244 of 2017

Ramachandran

... Petitioner

-VS-

- 1.The Principal Chief Engineer
(Water Resource Organization) &
Chief Engineer (Additional Charge)
Public Works Department
Chepauk, Chennai-600 005
- 2.The Superintending Engineer
Public Works Department
Special Project Circle
(Water Resource Organization)
Palani, Dindigul District
- 3.The Executive Engineer
Public Works Department
Nankanjiyar Drainage Division
Palani, Dindigul District
- 4.The Assistant Executive Engineer
Public Works Department
Nankanjiyar Drainage Sub Division
Edaiyakottai, Dindigul District

... Respondents



W.P.(MD) No.5294 of 2017

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the first respondent in his proceedings in Kaditha No.S3(4)/61874/2008 dated 01.09.2016 and the consequential impugned order passed by the fourth respondent in his proceedings in Kaditha No.Ko3/O.Se.Po.2/2016 dated 26.12.2016 and quash the same as illegal and consequently to direct the respondents to consider the name of the petitioner for appointment on compassionate ground, within the time frame to be fixed by this Court.

For Petitioner : Mr.Nawaz Khan
for M/s.Ajmal Associates

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition has been filed challenging the order, dated 01.09.2016, passed by the first respondent and the consequential order, dated 26.12.2016, passed by the fourth respondent, rejecting the petitioner's request for compassionate appointment, on the ground that the application submitted by the petitioner is beyond the period of three years from the date of death of



W.P.(MD) No.5294 of 2017

his father, who was an employee in the respondent – Public Works Department.

2. In the instant case, the petitioner is the son of Late.Easwaran, who was working in the respondent – Public Works Department, when he died on 27.06.2004. After his death, the petitioner's mother applied for compassionate appointment for the petitioner's brother, namely, Murugesan through an application dated 19.01.2007. However, instead of pursuing the request for the petitioner's brother Murugesan, the petitioner made a representation on 07.08.2008 to the respondents seeking for compassionate appointment for him, instead of his brother.

3. According to the petitioner, only due to the fact that his brother had to pursue higher studies, he had sought replacement. However, under the impugned orders, the petitioner's application has been rejected, on the ground that the application seeking for compassionate appointment was made by him beyond the period of three years from the date of his father's death. Aggrieved by the same, this writ petition has been filed.



W.P.(MD) No.5294 of 2017

WEB COPY

4. Learned counsel for the petitioner contends that since the original application submitted by his mother seeking for compassionate appointment was made within the period of three years from the date of death of his father, the respondents ought not to have rejected his application submitted on 07.08.2008 as the said application is only a continuation of the earlier application submitted by his mother seeking for compassionate appointment, which was well within the period of three years.

5. A counter affidavit has also been filed by the respondents reiterating the contents of the impugned orders and also denying the contentions of the petitioner.

6. The law is now well settled by the decisions rendered by this Court, which includes a Division Bench Judgment in the case of ***The Director of School Education and others vs. G.Mariraja***, reported in ***MANU/TN/6287/2022***. It has been made clear, in the said decision, that provisions for grant of compassionate appointment do not constitute a reservation of a post in favour of the family of the deceased employee. It has also been made clear that there is no general or vested right of compassionate appointment. The Division Bench has also held that a provision for



W.P.(MD) No.5294 of 2017

compassionate appointment is an exception to the principle that there must be an equality of opportunity in matters of public employment. The exception to be constitutionally valid has to be carefully structured and implemented in order to confine compassionate appointment to only those situations which subserve the basic object and purpose which is sought to be achieved. It has also been made clear that compassionate appointment can be claimed only by a scheme or rules, which provides for such appointment. Where such a provision is made in an administrative scheme or statutory rules, compassionate appointment must fall strictly within the scheme or, as the case may be, the rules. The Division Bench has also observed 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 the applicant for appointment on compassionate grounds.

7. In the instant case on hand, originally, the mother of the petitioner had submitted an application seeking compassionate appointment for the petitioner's brother Murugesan on 19.01.2007. Though the said application was within the period of three years from the date of death of the petitioner's father, all of a sudden, after a lapse of more than a year from the date of the original application, on 07.08.2008, the petitioner submitted an



W.P.(MD) No.5294 of 2017

application seeking to substitute his name for compassionate appointment instead of his brother's name stating that due to the fact that his brother was desirous of pursuing higher studies, his name has to be substituted.

8. As observed by the Honourable Division Bench of this court in the aforesaid decision, there is no general or vested right of compassionate appointment. A person seeking compassionate appointment cannot pick and choose the person, who has to be granted compassionate appointment at his / her whims and fancies. In the instant case on hand, admittedly, the petitioner's application dated 07.08.2008 seeking for compassionate appointment is beyond the period of three years from the date of death of his father. The Honourable Division Bench of this Court in the aforesaid decision as well as through a decision rendered by the learned Single Judge of this Court, has made it clear that any application seeking for compassionate appointment must be made within a period of three years from the date of death of the employee. Admittedly, the request of the petitioner seeking for compassionate appointment was made only on 07.08.2008 beyond the period of three years from the date of death of his father, who was earlier working in the respondent – Public Works Department and had died while he was in service.



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W.P.(MD) No.5294 of 2017

9. For the foregoing reasons, this Court is of the considered view that there is no infirmity in the impugned orders rejecting the petitioner's request for compassionate appointment as the said orders are only in accordance with law.

10. In the result, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.09.2024

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

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To:

- 1.The Principal Chief Engineer,
(Water Resource Organization) &
Chief Engineer (Additional Charge),
Public Works Department,
Chepauk, Chennai-600 005.
- 2.The Superintending Engineer,
Public Works Department,
Special Project Circle,
(Water Resource Organization),



W.P.(MD) No.5294 of 2017

WEB COPIED Palani, Dindigul District.

- 3.The Executive Engineer,
Public Works Department,
Nankanjiyar Drainage Division,
Palani, Dindigul District.
- 4.The Assistant Executive Engineer,
Public Works Department,
Nankanjiyar Drainage Sub Division,
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W.P.(MD) No.5294 of 2017

ABDUL QUDDHOSE, J.

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