



W.P.(MD)No.26 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.26 of 2024 &
W.M.P.(MD)Nos.13 & 15 of 2024

Sudali

... Petitioner

VS.

1.The Principal Secretary to Government,
Tamil Nadu Agricultural Department,
Secretariat,
Chennai - 600 009.

2.The Principal,
The Tamil Nadu Agricultural University,
Killikulam, Thoothukudi District.

3. The Register,
The Tamil Nadu Agricultural University,
Coimbatore -03.

... 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 relating to the impugned Memo issued by the third respondent in No.R1/06273/2019 dated 28.03.2019, quash the same and consequently direct the respondents to provide appointment to the petitioner's daughter Tmt. Vasanthi.



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For Petitioner : Mr.B.Nedunzhelian

For Respondent : Mr.J.Ashok,
Additional Government Pleader for R1

Mr.A.Thirumurthy for R2 and R3

ORDER

Heard Mr.B.Nedunzhelian, learned counsel appearing for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for R1 and Mr.A.Thirumurthy, learned counsel appearing for R2 and R3.

2. The petitioner has filed this writ petition seeking to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the third respondent in No.R1/06273/2019 dated 28.03.2019, quash the same and consequently direct the respondents to provide appointment to her daughter Tmt.Vasanthi.

3. The petitioner's husband who worked as a Mazdoor in the Tamil Nadu Agricultural University, Killikulam, Vallanadu died on



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25.02.2001 while in service. The petitioner has made an application to the second respondent on 22.07.2001 seeking compassionate appointment for herself. Subsequently, the petitioner had given a representation on 25.11.2002 to the second respondent relinquishing her claim and requested the second respondent to provide appointment to her daughter when she attains majority. Once the petitioner's daughter had attained majority, the petitioner has given an another application dated 25.07.2018 seeking appointment to her daughter on compassionate grounds. Since no action has been taken by the authorities, the petitioner had made another representation on 25.02.2019. However, the same has been rejected by the third respondent on 28.03.2019 stating that the appointment on compassionate grounds is always based on the indigent circumstances of the family of the deceased employee and since the application has been given beyond a maximum period of three years, the indigent circumstances of the family at the relevant point of time cannot be considered.



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4. Mr.B.Nedunzhelian, learned counsel appearing for the petitioner submitted that the petitioner's application seeking appointment on compassionate grounds for herself was not considered immediately and incidentally the petitioner had suffered a paralytic attack and became incapable to undertake the appointment, even if the respondents granted her appointment on compassionate grounds. In view of such forced circumstances, the petitioner has given a representation stating that after her daughter became a major she shall be given an appointment on compassionate grounds.

5. Mr.A.Thirumurthy, learned counsel appearing for the respondents 2 and 3 submitted that immediately after the petitioner gave her application, the second respondent has sent communications dated 14.02.2002, 06.09.2002 and 12.11.2002 asking the petitioner to submit certain documents. However, the petitioner without producing the required documents, has relinquished her claim for appointment on compassionate grounds. Hence, the petitioner cannot now claim an appointment for her daughter.



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6. The learned counsel placed reliance on the interim order of the Full Bench of this Court in ***W.P.(MD)No.7016 of 2011 and batch dated 11.03.2020 [Nandini Devi vs. The Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai and batch]*** wherein it is held that no application for appointment on compassionate grounds can be entertained after a maximum period of three years. The relevant portion of the order is extracted hereunder.

"13. In the light of the above we find that the judgment in the case of A. Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E. Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."



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7. There is no quarrel on the point that for submitting an application seeking compassionate appointment, there is a limitation of maximum period of three years and the applicants are expected to submit such applications within a period of three years and applications filed any time later shall not be considered. But, the case on hand is distinguishable on facts. The petitioner who is the wife of the deceased Government employee, at the first instance had submitted her application for appointment on compassionate grounds after the death of her husband in the year 2001 itself. Since the petitioner had suffered paralytic attack, she could not pursue the job and hence, she had given a representation stating that the job for compassionate appointment can be reserved for her daughter, who was a minor then. When the petitioner has found it impractical to take up any job, in view of the paralytic attack, it is right on her part to give a representation stating that her daughter can be given with that opportunity. Even though the petitioner has given an application on 25.02.2019 after her daughter attained majority, the representation given by the petitioner in the year 2002 seeking to provide appointment to her daughter when she attains majority was very much in



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force. Hence, in this case, it cannot be treated that the application itself has been filed after the expiry of three years.

8. In fact, from the submissions of the learned counsel appearing for the respondents 2 and 3, it is clear that communications have been sent to the petitioner in pursuant to her application for compassionate appointment. It is understandable that the petitioner who suffered a paralytic attack during the relevant point of time was not able to produce the required documents and that her daughter was also a minor. Hence, it is not fair on the part of the respondents to reject the application of the petitioner as the one, which is bared by limitation and not maintainable. Since the petitioner had given application in the year 2001 itself and with an abundant caution after she became physically unfit to take the job, she had given a representation in the year 2002 to reserve the consideration for appointment on compassionate grounds for her daughter after she attained majority.



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9. It could have been appropriate if the application has been considered in a holistic matter without rejecting the same on the misconception that the application has been filed beyond a maximum period of three years.

10. At this juncture, it is relevant to extract the necessary portion in the appended Notification of the Government Order in G.O.Ms.No.33, Labour Welfare and Skill Development (A1) Department, dated 08.03.2023 hereunder.

"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."

11. The above Government Order clearly states that there is no minimum age limit for submitting an application for appointment on



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compassionate grounds and it is sufficient that the person is a major on the date when appointment is given.

12. In the instant case, the petitioner had given an application in the year 2002 to consider her daughter for appointment on compassionate grounds since she sustained paralytic attack and she was not able to take up any job. That representation has not been considered till date. So without initiating action on the earlier representation made by the petitioner in the year 2002, the respondents had chosen to take action on the representation made by the petitioner in the year 2019 for rejecting it citing the reasons of limitation. The Government Order in G.O.Ms.No. 33, Labour Welfare and Skill Development (A1) Department, dated 08.03.2023 could not said to have prospective application in respect of age limit. Because the said part of Government Order only clarifies or interprets the age limit which has been allegedly prescribed in the Scheme for submitting application for appointment of compassionate grounds and it has not been introduced for the first time.



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13. In the instant case, the petitioner has not filed a fresh application in the year 2019, but she has already given an application in the year 2002 well within the period of limitation. The representation made by the petitioner in the year 2019 can only be considered as a renewal or remainder of the earlier representation.

14. In view of the above observations, the writ petition is **disposed of** and the impugned proceedings issued by the third respondent in No.R1/06273/2019 dated 28.03.2019 is quashed and the third respondent is directed to consider the representation of the petitioner dated 25.11.2002 in a holistic manner and pass orders afresh in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

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To
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The Principal Secretary to Government,
Tamil Nadu Agricultural Department,
Secretariat,
Chennai - 600 009.



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R.N.MANJULA, J.

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