



WP No. 9355 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-03-2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP No. 9355 of 2021

WMP.Nos.9943 & 9944 of 2021

A. Devakumar

...Petitioner

Versus

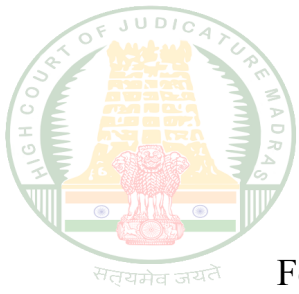
1.The State of Tamilnadu
Represented by its Secretary,
Revenue Administration Department
Ezilagam, 3rd Floor, Chepauk
Chennai-600 005.

2.The State of Tamilnadu
Represented by its District Collector
District Collector Office
Thiruvavarur-610 001.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to quash the order dated 10.02.2015 passed by the 2nd respondent vide Na.Ka.No. 22713/2013/A3 and direct the respondent to consider the candidature of the petitioner for appointment of any post.

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For Petitioner : Mr.M.R. Jothimanian

For Respondents : Mr.K.Raja

ORDER

The Writ Petition is filed challenging the impugned order of the second respondent dated 10.02.2015, in and by which the second respondent rejected the application submitted by the petitioner for compassionate appointment.

2. The petitioner's father worked as Revenue Inspector and died on 07.08.2000, leaving behind the petitioner's mother, brother and sister as his surviving legal heirs. The petitioner's mother died on 29.12.2002. After the demise of the petitioner's father, the petitioner's mother applied for terminal benefits and pension, which were sanctioned and received by her during her life time. Later, the pension was received by the petitioner's sister till her marriage. After the demise of the petitioner's mother, the petitioner obtained legal heir certificate from the Tahsildar, Thanjavur, on 04.02.2003. The



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petitioner applied for compassionate appointment on 20.11.2013 to the second respondent along with No Objection Letter of the petitioner's brother and sister. The second respondent, vide impugned order dated 10.02.2015, rejected the petitioner's request for compassionate appointment on the ground of inordinate delay of 13 years in applying for compassionate appointment. Pursuant to the rejection order dated 10.02.2015, the petitioner sent another representation on 02.03.2020, to the 2nd respondent for grant of compassionate appointment. As the respondent did not respond, the petitioner filed this writ petition for the aforesaid relief.

3. The 2nd respondent filed a detailed counter affidavit stating that the writ petition deserved to be dismissed at the threshold on the ground of delay and laches. The 2nd respondent stated that there was an inordinate delay of 6 years from the date of the rejection order dated 10.02.2015, in filing the writ petition. The 2nd respondent further submitted that the petitioner applied for compassionate appointment on 20.11.2013, 13 years



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after the death of his father. According to the 2nd respondent, the petitioner's request was rightly rejected because as per the scheme of compassionate appointment, the application had to be filed within 3 years of death of the employee. The respondent relied on the judgment of the Hon'ble Supreme Court in case of **Central Bank of India v. Nitin** reported in [2022 LiveLaw (SC) 690], in support of its case. The respondent therefore prayed for the dismissal of the writ petition.

4. Heard both sides and perused the materials placed on record.

5. The facts as narrated above are not in dispute. The only point for consideration is whether the rejection of the petitioner's request for compassionate appointment made on 20.11.2013 was justified or not?

6. It is seen from G.O.(Ms).No. 120, Labour and Employment Department, dated 26.06.1995 and G.O.(Ms).No. 18, Labour and



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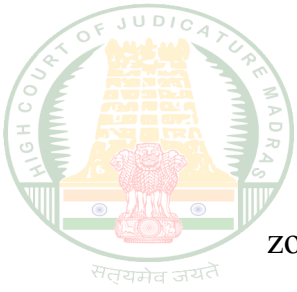
Employment Department, dated 23.01.2020 that the application for

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compassionate appointment should be filed within three years, from the date of death of the government employee. The petitioner in the instant case applied for compassionate appointment, 13 years after the death of his father and so the petitioner's application was rejected by the 2nd respondent vide proceedings in Rc.No.22713/2013/A3, dated 10.02.2015.

7. In this regard, it is worthy to refer to the judgment of the Hon'ble Supreme Court in case of **Central Bank of India v. Nitin** reported in [2022 **LiveLaw (SC) 690**]. The relevant Paragraph Nos.20 and 21 are extracted hereunder.-

“20. It is well settled that compassionate appointment is an exception to the rule of equality, which enables the dependent family members of a medically incapacitated employee who has no option, but to retire, or a deceased employees, to tide over the immediate crisis caused by the incapacitation or death of the breadwinner. Compassionate Appointment excludes equally or more meritorious candidates, much in need of a job, from the



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zone of consideration. Consideration for compassionate appointment must, therefore, be strictly in accordance with the prevalent rules for compassionate appointment applicable to the deceased/prematurely retired employee.

21. In this case, there is a financial criteria of eligibility for compassionate appointment under the Compassionate Appointment Scheme. Rules which provide for a financial criteria for appointment on Compassionate ground are valid and lawful rules which have to be construed strictly, as otherwise the quota reserved for compassionate appointment would be filled up excluding others who might be in greater and/or for more acute financial distress”.

8. Though in the above judgment, the Hon'ble Supreme Court non-suited the petitioner for not satisfying the financial criteria for compassionate appointment, in my view, the ratio laid therein that rules framed for compassionate appointment, should be strictly construed squarely applies to this case. Under the then prevailing scheme of compassionate appointment, the application for the compassionate appointment ought to have been made



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within three years, from the date of death of the Government employee, viz.,

G.O.(Ms).No.120, Labour and Employment Department dated 26.06.1995

and G.O.(Ms).No. 18 Labour and Employment Department dated 23.01.2020.

Admittedly, the application seeking compassionate appointment was submitted by the petitioner 13 years, after the death of his father/Government Employee, and therefore it runs counter to the scheme. Hence, the petitioner's application filed beyond the time stipulated by the scheme, was rightly rejected by the respondents by the impugned order and hence it cannot be faulted.

9. The learned Counsel for the respondents next contended that the writ petition was liable to be dismissed, on the ground of delay and laches. It is seen that the petitioner submitted his application for compassionate appointment on 20.11.2013 and the same was rejected by the 2nd respondent on 10.02.2015. The petitioner filed the present writ petition with a delay of six years, from the date of rejection order. In the affidavit, the petitioner has



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not cited any justifiable reasons for the inordinate delay of 6 years, in preferring the writ petition. In the absence of any justifiable reasons for the delay, I am of the view that the writ petition deserves to be dismissed even on the ground of delay and laches. Hence, I find no merits in this writ petition, ergo, the same is dismissed.

10. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order : Yes/No

MSM



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To

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The State of Tamilnadu
Revenue Administration Department
Ezilagam, 3rd Floor, Chempauk
Chennai-600 005.

2.The District Collector
The State of Tamilnadu
District Collector Office
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N. MALA, J.,

MSM

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