



W.A. No.2550 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A. No.2550 of 2023

M. Dhivakar S/o. Martin Shanthi Appellant

Vs.

1. The Commissioner,
Department of Adi-Dravida & Tribal Welfare,
Chepauk, Chennai-5.

2. The District Adi-Dravida & Tribal Welfare Officer,
Department of Adi Dravida & Tribal Welfare,
Chengalpattu & Chengalpattu District.

3. The Special Tahsildar,
Adi Dravida & Tribal Welfare Department,
Chengalpattu & Chengalpattu District. ... Respondents

PRAYER: The Writ appeal is filed under Clause 15 of Letters Patent praying to set aside the order dated 28.07.2023 made in W.P. No.22258 of 2023.

For Appellant : Mr. P. Ganesan

For Respondents : Mr. T. Chandrasekaran,



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Special Government Pleader.

JUDGMENT

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(Judgment of the Court was made by P.DHANABAL,J.)

This Writ Appeal has been preferred as against the order passed by the Writ Court in W.P. No.22258 of 2023 dated 28.07.2023, wherein the appellant herein has filed a Writ petition to quash the impugned order passed by the 1st respondent dated 19.02.2021 and consequently, to direct the respondents 2 and 3 to provide the appellant an employment in any post in consonance with the appellant's educational qualification by considering the proposal submitted by the 3rd respondent dated 10.10.2013.

2. The case of the appellant is that the father of the appellant was working in the respondent's department and during his employment, he died in the year 2003. After his demise, the mother of the appellant has filed an application for compassionate appointment on 06.11.2006. Thereafter, in the year 2012, the mother of the appellant filed an application seeking compassionate appointment to the appellant. The appellant attained majority in the year 2013. Thereafter, the request of the mother of the appellant seeking job on compassionate ground to the appellant, was rejected by the 1st respondent. Challenging the same, the petitioner filed the Writ petition. The Writ Court, after hearing both sides, dismissed the petition on the ground that



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the application was submitted in the year 2006 seeking employment for the appellant's mother and the same has not been pursued. Thereafter, in the year 2012, she had again filed another application seeking appointment to the appellant. After a lapse of 6 years from the date of the 1st application by the appellant's mother, she cannot assign with an application in favour of her son. No application was submitted by the appellant and as a matter of right, one cannot seek compassionate appointment when the policy of Government stipulates that the application should be given within 3 years and the same should be followed strictly. Aggrieved by the said order, the appellant has preferred this appeal.

3. The learned counsel appearing for the appellant would submit that the father of the appellant was an erstwhile employee of the respondent department and he died in the year 2003 during his employment and thereafter, the mother of the appellant submitted an application for compassionate appointment on 06.11.2006. The appellant attained majority in the year 2013. Prior to that, in the year 2012, the mother of the appellant filed another application seeking compassionate appointment to the appellant and the same was rejected by the 1st respondent. Challenging the same, he filed the Writ petition. The Writ Court, failed to consider that the



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applications for appointment on compassionate ground are not attended in time and were kept pending for years together and the respondent Authorities must consider and decide such applications for appointment on compassionate ground as per the policy prevailed, at the earliest. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to the death of bread winner, which has left the family in penury and without any means of livelihood. There was no fault on the part of the appellant and no reason was stated for keeping the applicant's petition pending. Moreover, the limitation for a minor child can be applied from the date of his attaining majority and the appellant immediately after attaining majority, approached the Authority, but the same has not been considered. The period of 3 years for a minor son can commence only after he attains majority. Therefore the application of the applicant cannot be treated as time barred and the order passed by the Authority in Na. Ka No.E6/13170/2015 dated 19.02.2021 is liable to be set aside. However, the Writ Court failed to appreciate the above said facts and simply dismissed the Writ petition. Therefore, the order passed by the Writ Court is liable to be set aside.

4. The learned Special Government Pleader appearing for the respondents would submit that the father of the appellant was the employee of



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the respondents' department and he died in the year 2003 while he was in employment. Thereafter, the mother of the appellant filed an application for compassionate appointment and thereafter, she filed another petition for compassionate employment for her son in the year 2012. The mother of the appellant filed a petition in the year 2012, i.e., after 3 years. The appellant ought to have filed application within 3 years from the date of death of his father. But he has not filed immediately after the demise of his father. Even on the date of death of his father, his age was 10 years as per the Legal Heir Certificate. Thereafter, they filed an application in the year 2012. Therefore, the Authority rejected the request for compassionate appointment to the appellant and the Writ Court also has correctly dismissed the Writ petition on the ground that earlier, the mother of the appellant filed a petition for compassionate appointment in the year 2006 and the same ought to have pursued, but after 6 years, again in the year 2012, the present application has been filed. Therefore, as a matter of right, the compassionate appointment cannot be granted. Therefore, the present appeal is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.



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6. In this case, there is no dispute that the appellant's father was the employee of the respondents' department and he died in the year 2003, during the course of employment. The mother of the appellant filed an application for compassionate appointment on 06.11.2006 and thereafter, again she filed another application in the year 2012 for her son. The application was filed belatedly after 10 years. The above said aspect was considered by the Writ Court and the Writ Court also categorically observed as follows:-

5. It is relevant to note that the very object of compassionate appointment is to alleviate the distressed family of the Government servant who died in harness. Particularly, when the family members of the Government servant are not in a position to maintain the family due to sudden loss of the Government servant, on whom they are totally dependant. To address the above issue, compassionate appointment is envisaged. Having given an application in the year 2006, the petitioner's mother has not persued the same. Whereas in the year 2012, she has given another application seeking appointment to the petitioner. The petitioner attained majority only in the year 2013. Therefore, this Court is of the view that the mother of the petitioner ought to have pursued her application. After a period of six years, she cannot assign that application in favour of her son. In such view of the matter, this Court is of the view that as a matter of right, compassionate appointment cannot be granted. Though as per the above judgment cited by the learned counsel for the petitioner that the application filed by the person on attaining majority could be considered, in the above case, the application itself has been given by the petitioner on his attaining majority. Whereas, in this case, the application has been given by the mother of the petitioner. Hence, as a matter of right one cannot seek compassionate appointment when the policy of the Government stipulates that the application should be given within three years, the same should be followed strictly. The very object of compassionate appointment is to address the adversity of the family immediately. Therefore, the same cannot be extended beyond the period, as per the policy of the Government. Hence, I do not find any merits in this Writ Petition.

7. Having filed application by the mother of the applicant on



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06.11.2006 after the death of her husband, that too after 3 years from the date of death of the employee (02.11.2003 to 06.11.2006) and the same was not pursued and after 6 years, in the year 2012, the mother of the appellant once again gave a request for compassionate appointment to her son. Once the mother filed an application for compassionate appointment and the same was not pursued, she cannot make application again for her son, with enormous delay of 6 years, that too before attaining majority.

8. The learned counsel appearing for the appellant has relied judgment of Honble Supreme Court in *Malaya Nanda Sethy vs. State of Orissa and others in Civil Appeal No.4103 of 2022* and the judgment of this Court in *K. Pitchaimani vs. The Secretary to Government and others reported in CDJ 2014 MHC 3019*.

On a careful perusal of the above said judgments, it is clear that the applications for compassionate appointment can be filed within 3 years after attaining majority and the application cannot be rejected on the basis of frivolous reasons and for the reasons extraneous to the facts of the case.

9. In the case on hand, the appellant has not filed the petition for



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compassionate appointment after his attaining the age of majority. Once the mother of the appellant filed application for her appointment after 3 years from the date of death of her husband on 06.11.2006 and the same was not pursued and thereafter, in the year 2012, she cannot file another application seeking compassionate appointment for her son namely, the appellant. Therefore, the said case laws will not be applicable to the present facts of the case.

10. Further this Division Bench also passed a judgment in W.A. No.1189 of 2023 held in Para No.15 as follows:-

"15. Meaning thereby is, at the time of the death of the Government employee if the legal heir is a minor, he can make an application nevertheless of his age, even a four years boy or five years girl can make an application provided such an application would be considered for grant of compassionate appointment only after the applicant reaches majority, i.e., on completion of 18 years provided at the time when the legal heirs reached majority of 18 years still whether the family is in indigent circumstances or not are to be examined and based on which alone, such application can be considered.

11. In view of the above said judgment, it is clear that at the time of death of a Government employee, if the legal heir is a minor, he can make an application nevertheless of his age, even a four years boy or five years of girl can make an application provided such an application would be considered for grant of compassionate appointment only after the applicant reaches



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majority, i.e., on completion of 18 years provided at the time when the legal heirs reached majority of 18 years still whether the family is in indigent circumstances or not are to be examined and based on which alone, such application can be considered as per Sub-Rule 2 of Rule 6 of Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023. The said Rule 6(2) would not come to rescue the present appellant, since his application was filed much earlier to the commencement of the rule and he became major in the year 2013.

12. In the case on hand also, the Writ appellant has not filed application after attaining majority, whereas his mother made application even before he attaining majority, that too after 6 years of delay. Therefore, the Writ Court has passed a reasoned order and the same cannot be interfered with as there are no grounds.

13. In view of the same, the Writ appeal is dismissed. There shall be no order as to costs.

(R.S.K.J.) & (P.D.B.J)

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Index : Yes/No

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Speaking order/non-speaking order
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To

1. The Commissioner,
Department of Adi-Dravida & Tribal Welfare,
Chepauk, Chennai-5.
2. The District Adi-Dravida & Tribal Welfare Officer,
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