

W.A(MD).No.297 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 15.09.2025

PRONOUNCED ON : 19.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.297 of 2018

J.Prakash

...Appellant/Petitioner

Vs

1.The Government of Tamil Nadu
Rep.by its Principal Secretary
Municipal Administration and
Water Supply Department
Fort St.George, Secretariat
Chennai 600 009

2.The Commissioner of Municipal Administration
Ezhilagam, Chepauk
Chennai.

3.Rajapalayam Municipality
Rep. by its Commissioner
Rajapalayam
Virudhunagar District

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 04.01.2018 made in in WP(MD).No.16525 of 2013 on the file of this Court.



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For Appellant : Mr.R.Subramanian

For Respondents : Mr.V.Om Prakash
Government Advocate for R1 & R2

: Mr.N.Dilip Kumar for R3

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The petitioner in WP(MD).No.16525 of 2013 has filed the present writ appeal challenging the dismissal of his writ petition wherein the prayer of the seeking compassionate appointment was rejected.

2.The petitioner's father was employed as an NMR on daily wages basis as a Pump Room Operator in the third respondent municipality. While in service, he had passed away on 22.09.2003. The petitioner's mother has given a request for compassionate appointment on 25.01.2008 to the concerned municipality. Since there was no response, a representation was sent to the Chief Minister Special Cell on 26.02.2008. On 08.05.2008, the request of the petitioner's mother was rejected on the ground that the application was not presented within a period of three years from the date of death of an employee and the deceased employee was not a permanent employee. This was also communicated to the petitioner's mother. However, this order was not put to challenge.



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3.The petitioner's mother has given another request during the Grievance Redressal Day on 05.03.2010. This application was rejected by way of an order dated 24.03.2010 by the third respondent and it was also communicated to the writ petitioner's mother. Referring to the communication dated 24.03.2010, the petitioner's mother has sent another representation to the third respondent on 31.07.2013 seeking compassionate appointment pointing out that the employees who are similarly placed on par with her husband have been regularized and therefore, the rejection of request for compassionate appointment on the said ground is not valid. This representation was again rejected under the impugned order dated 23.08.2013 pointing out that the application was not filed within a period of three years from the date of death of the employee and already 10 years have elapsed from the date of death of the employee. The order dated 23.08.20213 was put to challenge in the above writ petition.

4.This Court by an order dated 04.01.2018 had dismissed the writ petition primarily on the ground that the deceased employee was a temporary employee and the scheme of compassionate appointment cannot be extended to the legal heirs of such temporary employees. Challenging the said order, the present writ appeal has been filed by the writ petitioner.

5.The learned counsel appearing for the appellant submitted that name of the petitioner's father along with others was recommended for



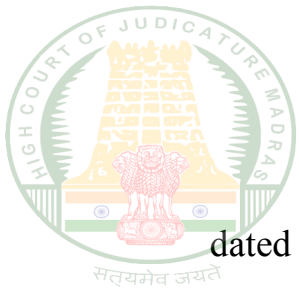
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regularisation of services. In fact, an order of regularisation has been passed in respect of similarly placed employees by way of G.O.(Ms).No.21 Municipal Administration and Water Supply (MC3) Department dated 23.02.2006. Had the petitioner's father was alive, he would also been regularized. He had further submitted that the petitioner's father had put in more than 20 years of service as an NMR at the time of his death. Therefore, the writ Court was not right in rejecting the writ petition on the said ground.

6.The learned counsel for the appellant had further submitted that there was a ban for fresh appointment between 2001 to 2006. Therefore, the application seeking compassionate appointment could not be submitted immediately after the death of the employee. Only in those circumstances, the application was presented on 25.01.2008. Therefore, there is no delay in submitting an application seeking compassionate appointment.

7.The learned counsel for the appellant had further submitted that the rejection order dated 08.05.2008 communicated to the Chief Minister Special Cell and the order dated 24.03.2010 are merely opinion and they cannot be construed to be administrative or quasi judicial orders. He relied upon a judgment of the Hon'ble Supreme Court reported in **2004 (5) CTC 108 (R.Sulochana Devi Vs.D.M.Sujatha and others)** in support of his contentions. Therefore, the non challenging of those orders would not in any way be a legal bar for the petitioner to challenge the present impugned order



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dated 23.08.2013.

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8.The learned counsel for the appellant had further submitted that the writ Court had dismissed the writ petition solely on the ground that the petitioner's father was the temporary employee and therefore, the legal heirs would not be entitled to get appointment on compassionate ground. No other ground has been assigned by the writ Court. According to him, when it has been demonstrated that the similarly placed persons like that of the father of the petitioner have been regularised, the said ground will not stand the scrutiny of law and hence, he prayed for allowing the writ appeal.

9.Per contra, the learned counsel for the third respondent municipality submitted that the application seeking compassionate appointment was presented five years after the date of death of the employee. The said request was rejected by way of an order dated 08.05.2008 which was communicated to the writ petitioner's mother. Another request was forwarded to the municipality during the Grievance Redressal Day on 05.03.2010 and the same was rejected on 24.03.2010 by the third respondent. These two orders cannot be considered to be an opinion, but they are administrative orders rejecting the request of the petitioner's mother. Without challenging the same, a third request was made on 12.08.2013 which was rejected under the impugned order dated 23.08.2013. In such circumstances, the writ petition filed challenging the third impugned order would not be maintainable without



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challenging the first two impugned orders.

WEB COPY 10. The learned counsel for the respondent further submitted that the application has not been presented within a period of three years from the date of death of the employee. Though the petitioner has assigned some reason like that of an subsistence of a ban order, the same has not been substantiated by way of records. He had further submitted that the ban order was only for issuing appointment order and it would not in any way prevent the aspirant to submit an application seeking compassionate appointment. Hence, he prayed for confirming the order passed by the writ Court.

11. We have carefully considered the submissions made on either side and perused the material records.

12. The petitioner's father had passed away on 22.09.2003 while he was an NMR employee in the third respondent municipality. As per Government order prevailing then, the application seeking compassionate appointment has to be presented within a period of three years from the date of death of an employee. Admittedly, the application has been presented only on 25.01.2008 after a period of five years. Even assuming that there was a ban order between 2001 to 2006, the application having been presented two years after lifting of the ban order, can be considered only as a delayed application.

13. The petitioner's mother had given an application to the Chief Minister Special Cell on 26.02.2008. The Director of Municipal



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Administration after calling for remarks from the third respondent municipality has issued a communication to the Chief Minister Special Cell on 08.05.2008 pointing out that the request for compassionate appointment has been rejected on the ground that the application has not be presented within a period of three years. A copy of the same has also been marked to the writ petitioner's mother.

14.Two years after the above said order, on 05.03.2010 another request was made by the petitioner's mother seeking compassionate appointment. The same has been rejected by way of an order passed by the third respondent on 24.03.2010. A perusal of these two orders would clearly reflect that they are not mere opinion, but they are administrative orders which are subject to judicial review. However, the petitioner or his mother had not chosen to challenge these two orders for reasons best known to them.

15.The petitioner's mother after referring to the order dated 24.03.2010, had resurrected the request by sending a letter dated 12.08.2013. This request has been returned down under the impugned order dated 23.08.2013. Therefore, it is clear that even after rejection order dated 24.03.2010, the petitioner or his mother have not chosen to send another request within a period of three years. There is no explanation whatsoever for the above said delay.



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16. Even assuming that the petitioner's father was a regular employee, unexplained delay would clearly disentitle the petitioner from seeking compassionate appointment. In such circumstances, we are inclined to confirm the order of dismissal passed by the writ Court though for different reasons.

17. In view of the above said deliberations, there are no merits in the writ appeal and the same stands dismissed. No costs.

(C.V.K.J.,)

(R.V.J.,)

19.09.2025.

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

1. The Principal Secretary
The Government of Tamil Nadu
Municipal Administration and
Water Supply Department
Fort St. George, Secretariat
Chennai 600 009

2. The Commissioner of Municipal Administration
Ezhilagam, Chepauk
Chennai.



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AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
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