

(2013) 09 MAD CK 0119

In the Madras High Court

Case No : Writ Petition No. 1882 of 2009

M. Manimaran

APPELLANT

Vs

The Special Commissioner for Revenue Administrator and
Commissioner for Revenue Administration, The District
Collector and The Tahsildar

RESPONDENT

Date of Decision : 12-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0119

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

**Advocate : S. Saravanakumar, for the Appellant; K.V. Dhanapalan, Addl. Govt.
Pleader, for the Respondent**

Judgement

D. Hariparanthaman, J.—This writ petition is filed to call for the records of the second respondent in his proceedings Na. Ka. A. 1/46958-

2004, dated 1.12.2008 and quash the same and direct the respondents to appoint the petitioner as per qualification in any suitable job under

compassionate ground. The father of the petitioner was working as a village assistant at Chidambaram Taluk Office. He died on 25.10.1998 while in service.

2. The petitioner applied for employment under compassionate ground in the year 1998 and 2000 itself. Thereafter, another application dated

14.6.2001 was sent to the respondents within three years from the date of death of his father. When the petitioner had approached in the year

2004, one of the clerks working in the office of the third respondent informed that his application dated 14.6.2001 was misplaced and he obtained

the signature of the petitioner. According to the petitioner, the second respondent

issued a proceedings dated 15.2.2007 appointing several persons under compassionate ground, but his application was not considered. While so, the second respondent passed the impugned order dated 01.12.2008 stating that the application of the petitioner was rejected on the ground that it was made beyond three years. Hence, this writ petition is filed to quash the order of the second respondent dated 01.12.2008 and for a direction to provide compassionate appointment.

3. The second respondent has filed a counter affidavit refuting the allegations made in the affidavit filed in support of the writ petition. It is stated in the counter affidavit that the petitioner has made an application on 19.4.2004 and the application should have been made on or before 20.4.2001 as per G.O. Ms. No. 120 Labour and Employment Department, dated 24.6.1995, which contemplated that the application should be made within three years from the date of death of the Government servant. Since the application was made belatedly after three years, it was rejected.

4. The third respondent has filed a counter affidavit stating that no application was made by the petitioner in the years 1998 and 2000 as alleged in the affidavit filed in support of the writ petition. The petitioner gave an application to the third respondent only on 19.4.2004 but due to typographical error, it was wrongly mentioned as 14.6.2001 and no alteration or correction has been made by the third respondent. Since the application was made beyond three years and the same is contrary to G.O. Ms. No. 120 Labour and Employment Department, dated 24.6.1995, the application was rejected. In paragraph 4 of the counter filed by the third respondent, it has been stated as follows:-

I further submit that the petitioner only given the application to the third respondent on 19.4.2004 that typical error was wrongly mentioned dated 14.6.2001. There was no alteration made by the third respondent, it is only typical error. In corresponding to typographical error subsequent correction made in column No. 3, 4 and 15 of proforma.

5. Heard both sides.

6. Since the petitioner has made allegations that there was no typographical error as alleged by the third respondent and it was corrected in the original application by pen, I directed the third respondent to produce the original records. Accordingly the original records are produced and I

have perused the same.

7. On a perusal of the original records, it is found that the application in proforma submitted by the petitioner is at page No. 21 of the file. The said proforma was filled in by way of typing. Originally, as against Sl. No. 2, it was typed as 14.6.2001 but later it was corrected by pen as 19.4.2004.

Like wise, as against Sl. No. 4, which was relating to date of birth and age, it was originally typed as 30.5.1982, 19 years but it was corrected by pen as 22 years.

8. It is categorically averred by the third respondent that there was no correction made in the originals and if there is any correction, it was only typographical error. But the original records disclosed that there was a correction in the proforma by pen. Therefore, I am of the view that the

petitioner might have submitted his application on 14.6.2001 itself. Even though it is contended by the learned counsel for the petitioner that the

petitioner has submitted applications directly to the third respondent in the years 1998 and 2000, there is no evidence that the petitioner has

submitted his application during the years 1998 and 2000.

9. Further, the learned counsel for the petitioner brought to my notice that the third respondent himself has issued the legal heir certificate dated

27.11.1998. Paragraph 4 of the said legal heir certificate reads as follows:-

10. According to the learned counsel for the petitioner, based on the applications submitted during the years 1998 and 2000, the Revenue

Divisional Officer issued a certificate about the indigenous circumstances of the deceased Government Servant's family. The said certificate dated

2.5.2001 is extracted hereunder:-

From the reading of the above said certificate, it is clear that the certificate was issued for the purpose of compassionate appointment. Taking into

account all these factors, I am of the view that the respondents are not correct in rejecting the claim of the petitioner on the ground that he made

the application after three years belatedly. Hence, the impugned order is quashed and the writ petition is allowed and the matter is remitted back to

the second respondent to pass appropriate orders giving compassionate appointment to the petitioner, if he is otherwise eligible. The second

respondent is also directed pass the order as stated above within a period of eight weeks from the date of receipt of a copy of this order.

Consequently, M.P. No. 2 of 2009 is closed. No costs.