
(2009) 06 MAD CK 0218

In the Madras High Court

Case No : Writ Petition No. 2842 of 2007 (T) and O.A. No. 408 of 2001

P. Syed Thurap Sulaiman

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 12-06-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 16(1), 226

Citation : (2009) 06 MAD CK 0218

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : S. Vadivelu, for the Appellant; V. Arun, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This writ petition has been filed praying for a writ of Certiorari to call for the records and to set aside the order of the first respondent passed in letter No. 17699/VaeNee4/2000-2, Agriculture Department, dated 3.10.2000 and to direct the respondents to appoint the petitioner herein on compassionate grounds, as a Junior Assistant in the Agriculture Department or in any office subordinate to that Department.

2. It has been stated that the petitioner's father M. Peer Mohamed had been employed as a watchman in the Agricultural Extension Centre, Alwarkurichi, Tirunelveli District. He had died in harness, on 12.7.1986.

3. The petitioner's mother is an illiterate. The petitioner was a minor aged about 10 years at the time of the death of his father. The petitioner had passed his Higher Secondary Examinations in the year, 1995. The petitioner's mother had made a representation to the second respondent, on 10.1.1995, for appointing the petitioner on compassionate grounds, since his sisters did not possess the required qualifications. The petitioner had also applied for appointment on compassionate grounds to the second respondent, on 13.7.1996, enclosing a "No

Objection Certificate" from his sisters. However, the first respondent had rejected the request of the petitioner for an appointment on compassionate grounds by the impugned letter, dated 3.10.2000, without applying his mind.

4. The main contention of the learned Counsel for the petitioner is that the impugned letter of the first respondent, dated 3.10.2000, is arbitrary and illegal. The first respondent had passed the impugned order, rejecting the claim of the petitioner, even though the family of the petitioner has been indigent circumstances and the petitioner is fully qualified for being appointed on compassionate grounds.

5. Per contra, the learned Additional Government Pleader for the respondents had submitted that the petitioner was a minor, aged about 10 years, at the time of the death of his father, on 12.7.1986. The representation for compassionate appointment had been made after nearly 12 years from the date of the death of the Government servant. In such circumstances, the relief sought for by the petitioner cannot be granted.

6. The following are some of the recent decisions relating to appointments on compassionate grounds.

5.1. In *State Bank of India and Another Vs. Somvir Singh*, , the Supreme Court had held that appointment on compassionate grounds is an exception carved out to the general rule that recruitment to public services is to be made in a transparent and accountable manner, providing opportunity to all eligible persons to compete and participate in the selection process. Such appointments are required to be made on the basis of open invitation of applications and merit. Dependants of employees who had died in harness do not have any special or additional claim to public services other than the one conferred, if any, by the employer. The claim for compassionate appointment and the right, if any, is traceable only to the scheme, executive instructions, rules, etc. framed by the employer in the matter of providing employment on compassionate grounds. There is no right of whatsoever nature to claim compassionate appointment on any ground other than the one, if any, conferred by the employer by way of a scheme or instructions, as the case may be.

5.2. In *I.G. (Karmik) and Others Vs. Prahalad Mani Tripathi*, , the Supreme Court had held that compassionate appointment must be in consonance with the Constitutional scheme of equality enshrined in Articles 14 and 16 of the Constitution of India.

5.3. In *Union Bank of India and Others Vs. M.T. Latheesh*, , the Supreme Court had held that grant of employment on compassionate grounds in all cases, would shut the door for employment to the increasing number of unemployed youth.

5.4. In *Mohan Mahto Vs. Central Coal Field Ltd. and Others*, , the Supreme Court had recognised the fact that appointment on compassionate grounds are an exception to Article 16(1) of the Constitution of India.

5.5. In *State Bank of India and Others Vs. Jaspal Kaur*, the Supreme Court had held that a major criterion while appointing a person on compassionate grounds should be the financial condition of the family of the deceased person. The appointment under the scheme of compassionate appointment is at the discretion of the authority concerned. The discretion is to be exercised keeping in view the scheme and the object and the rationale behind it. However, it cannot be claimed as a matter of right.

5.6. "In *H. Anwar Basha v. The Registrar General, Madras High Court 2008 (3) CTC 785*, a Division Bench of this Court had held that the object of compassionate appointment is to mitigate the sufferings of the bereaved family of the Government servant who had died in harness leaving his family in indigent circumstances.

7. Considering submissions made by the learned Counsels appearing for the parties concerned, it is clear that the request for appointment on compassionate grounds had been made by the petitioner, belatedly, after nearly 12 years from the date of the death of his father.

8. In view of the submissions made by the learned Counsels appearing on behalf of the parties concerned and in view of the decisions rendered by the Courts of law and on a perusal of the records available before this Court, this Court is of the considered view that the request of the petitioner for appointment on compassionate grounds cannot be entertained by the respondents after nearly 12 years from the death of the petitioner's father, who had died in harness, on 12.7.1986, while in service. The purpose for which such appointments are made by relaxing the rules applicable to the regular process of recruitment would be defeated if the request of the petitioner is entertained after the lapse of many years. The scheme for compassionate appointment has been formulated to help the family of the deceased Government servant to tide over the crisis arising due to the sudden death of the breadwinner of the family. If the members of the family are found to be in indigent circumstances one of the members of the family of the deceased Government servant would be given an appointment on compassionate grounds, in accordance with the norms prescribed in that regard. However, such appointments can be made only in accordance with the rules framed for the said purpose and in accordance with the Government orders applicable to such appointments.

9. In such circumstances, the petitioner is not in a position to show sufficient cause or reason for this Court to interfere with the impugned order passed by the first respondent rejecting the request of the petitioner for appointment on compassionate grounds. It is clear that the appointments on compassionate grounds are made only to help the family in distress due to the sudden death of the breadwinner of the family, and if the members of the family are found to be in indigent circumstances. Such appointments are made to help the family to tide over the immediate crisis arising due to the death of an earning member of the family. It cannot be considered as an avenue for employment in the normal

course. In view of the decisions rendered by the various courts of law, the belated request of the petitioner for appointment on compassionate grounds does not deserve serious consideration, at this late stage. In such view of the matter, the writ petition is liable to be dismissed. Hence, it is dismissed. No costs.