

(2012) 01 MAD CK 0181

In the Madras High Court

Case No : Writ Petition No. 2780 of 2007 (O.A. No. 5530 of 2001)

Packiyam

APPELLANT

Vs

The District Collector, Madurai and The Executive Officer,
Velangudi Town Panchayat Madurai District

RESPONDENT

Date of Decision : 03-01-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2012) 01 MAD CK 0181

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : R. Muthukannu, for the Appellant; P. Karthikeyan for R1 and Mr. C. Kalaichelvan for R2, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. The petitioner has approached this Court with the prayer for issuance of a writ in the nature of Mandamus, directing the respondents to consider

the applicant's claim for compassionate appointment

2. The husband of the petitioner was appointed on daily wage basis with the second respondent Town Panchayat as Supervisor, and continued on

the job on different positions till 05.11.1998, i.e. till his death.

3. The case of the petitioner is that immediately on the death of the husband of the petitioner, application was made for appointment on

compassionate ground. The second respondent Town Panchayat, keeping in view the pitiable condition of the family of the deceased,

recommended appointment of the daughter of the petitioner, who was aged 19 years and fully qualified for appointment.

4. The petitioner did not accept the said offer, and insisted, that it is the petitioner, who should be appointed to the post. Having not succeeded in getting order of appointment, the petitioner has approached this court.

5. The writ petition is opposed by the second respondent. In the written statement, the stand of the second respondent is that though the petitioner's deceased husband was entitled to be regularized in service, but on account of death, he was not regularized nor the petitioner has sought any relief of regularization of his service. The husband of the petitioner continued to be a daily wage temporary employee with the second respondent Town Panchayat, therefore, the petitioner has no case for compassionate appointment.

6. The stand is also that the decision for appointment of the daughter of petitioner was under consideration with the department, but neither the petitioner showed interest in seeking appointment for the daughter nor the daughter of deceased seemed to be interested in seeking compassionate appointment. The stand taken by the respondent is that the writ petition is premature.

7. On consideration, I find no merit in this writ petition. The Hon"ble Supreme Court in the case of Santosh Kumar Dubey vs. State of U.P., 2009

(3) SCT 629 has been pleased to lay down that compassionate appointment cannot be claimed as a matter of right. The purpose of compassionate

appointment is to provide immediate financial assistance to family, who has lost its breadwinner, therefore, the request for compassionate

appointment should therefore be proximate to employee's death. Compassionate appointment is not a bonanza or another source of recruitment. It

cannot be claimed as a matter of right. Again in the case of State of J & K and others vs. Sajad Ahmed Mir, 2006 (3) SCT 598, the Hon"ble

Supreme Court was pleased to lay down that the policy of compassionate appointment cannot be used as an alternate channel of recruitment in

violation of Article 14 & 16 of the Constitution. It is an exception to the normal rule, which cannot be allowed to overlook the normal rule. The

policy is only meant to tide over sudden crisis. If the family was able to subsist for considerably a long period, it cannot be said to be in any

financial crisis to be granted assistance by way of compassionate appointment. The Court will consider not only the delay in making application,

but also the period for which applicant remained mum after making the application and also the time taken for the proceedings. If the Court was considering the writ after 15 years of death of employee, the relief cannot be granted.

8. The husband of the petitioner, admittedly, died on 05.11.1998. It is too late now at this stage after 11 years to seek compassionate appointment for a person, who is already 50 years of age. No instruction or the rule material has been placed on record under which the petitioner can claim the right to compassionate ground, after passage of 12 years, that too, in case of an employee, who was yet to be regularized in service.

9. Consequently, finding no merit in this writ petition, it is ordered to be dismissed. No costs.