SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

P.Muthupandi Vs. the General Manager

P.Muthupandi Vs. the General Manager

SooperKanoon Citation : sooperkanoon.com/925896

Court : Chennai

Decided On : Mar-21-2012

Judge : N.Paul Vasanthakumar, J.

Acts : Constitution of India - Article 226

Appeal No. : W.P.(MD)No.6576 of 2011 and M.P.(MD)No.1 of 2011

Appellant : P.Muthupandi

Respondent : The General Manager

Advocate for Pet/Ap. : Mr.K.Appadurai, Adv.

Judgement :

Prayer

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Memorandum No.IP1311/MaVa2/AVIPOKATHANA/2011 dated 8.3.2011 quash the same and consequently direct the respondents herein to consider the petitioner's application dated 16.02.2011 for compassionate appointment.

ORDER

1. The prayer in the writ petition is to quash the impugned order of the 1st respondent, dated 8.3.2011 and consequently direct the respondents herein to consider the petitioner's application dated 16.02.2011 for compassionate appointment.

2. The case of the petitioner is that the petitioner's father, who was working as Driver in the 2nd respondent Corporation, died while in service on 27.05.1998. At that time, the petitioner was 19 years old. However, he made an application on 16.02.2011 to the 2nd respondent and the same was forwarded to the 1st respondent. The request of the petitioner was rejected by the 1st respondent on the ground that the application has been made beyond 3 years from the date of death of the deceased person. It was against the order of the 1st respondent, the petitioner has filed the present Writ petition.

3. The learned counsel for the respondent submitted that application for appointment on compassionate ground should be made within a period of three years from the date of death of Government Servant. But, in the case on hand, nearly after a lapse of thirteen years, he has chosen to seek appointment. The application having been made for the first time in the year 2011, i.e., after the expiry of thirteen years, the same was rightly rejected.

4. The issue regarding application made seeking appointment on compassionate ground after lapse of a long time was considered by the Hon'ble Supreme Court in the decision in State of Manipur vs. Md.Rajaodin reported in 2003 (7) SCC 511. In Paragraph Nos.12 and 13, the Hon'ble Supreme Court held thus:-

12. In State of U.P. v. Paras Nath reported in 1998 (2) SCC 412 : 1998 SCC (L&S) 570, it was held that the purpose of providing employment to the dependant of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointments. None of these considerations can operate when the application is made after a long period of time. In that case also the delay was of 17 years.

13. When the case of the respondent is considered in the panorama of the aforesaid legal principles, the inevitable conclusion is that he was not entitled to appointment. Even after the 1984 Scheme came into force, the application was filed after a long lapse of time. He, therefore, had no right much less a legal right to ask for an appointment. The learned Single Judge of the High Court was not justified in directing the appellant to give appointment. It is also on record that there was a ban on direct recruitment under the Die- in-Harness Scheme as is evidenced by the office memorandum dated 24-7-2001. The Scheme itself provided for a clearance from the Government in the Department of Personnel and Administrative Reforms (Personnel Division).

5. In similar circumstances, the Hon'ble Supreme Court in State of J & K v. Sajad Ahmed Mir, reported in 2006(4) MLJ 604 has held as follows:-

17. In the case on hand, the father of the applicant died in March, 1987. The application was made by the applicant after four and half years in September, 1991 which was rejected in March, 1996. The Writ Petition was filed in June, 1999 which was dismissed by the learned single Judge in July, 2000. When the Division Bench decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. The said fact was indeed a relevant and material fact which went to show that the family survived in spite of death of the employee. Moreover, in our opinion, the learned single Judge was also right in holding that though the order was passed in 1996, it was not challenged by the applicant immediately. He took chance of challenging the order in 1999 when there was inter-departmental communication in 1999. The Division Bench, in our view, hence ought not to have allowed the appeal

6. A Division Bench of this Court in M.Raju vs. Union of India reported in 2009 (4) MLJ 237, has held that application made seeking appointment on compassionate ground after lapse of a reasonable time cannot be considered.

7. In the light of the above binding precedents of the Supreme Court and the Division Bench of this Court, the request of the petitioner cannot be considered at this distance of time, i.e., after a period of thirteen years. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

No costs. Consequently, connected miscellaneous petition is closed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com