



W.A.No.550 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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ORDERS RESERVED ON : 22.04.2022

ORDERS PRONOUNCED ON : 06.06.2022

**CORAM:**

**THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**  
**and**  
**THE HON'BLE MRS. JUSTICE N.MALA**

**W.A.No.550 of 2022**  
**and C.M.P.No.4051 of 2022**

- 1.The General Manager,  
Chennai Metropolitan Water Supply and Sewerage Board,  
No.1, Pumping Station Road,  
Chintadripet,  
Chennai – 600 002.
- 2.The Chairman and Managing Director,  
Chennai Metropolitan Water Supply and Sewerage Board,  
No.1, Pumping Station Road,  
Chintadripet,  
Chennai – 600 002.

At presently in  
No.75, Santhome High Road,  
MRC Nagar, R.A.Puram,  
Chennai – 600 028.

... Appellants

vs.

A.Chindamani

... Respondent



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**Prayer:** Writ appeal filed under Clause 15 of Letter's Patent, to set aside the order in W.P.No.31311 of 2017 dated 25.08.2021 and set aside the same and thereby allow the Writ Appeal.

For Appellants : Mr.R.Neelakandan,  
Additional Advocate General  
Assisted by R.K.Kalpana

For Respondent : Mr.K.Raja

\* \* \* \* \*

### **J U D G M E N T**

[Order of the Court was made by S.VAIDYANATHAN,J. and N.MALA, J.]

The Writ Appeal is filed against the order dated 25.08.2021 passed in W.P.No.31311 of 2017. The respondent herein filed the above said writ petition praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent No.1, in Ka.No.SEKUVAA/PAMANEE/NEEMA4/7553/ 2017 dated 21.03.2017 and quash the same and thereby, direct the respondents to grant compassionate appointment as per the petitioner's representation dated 15.03.2017.

2.The present case is typical of the legal maxim “Vigilantibus non dormientibus jura subveniunt” meaning that the law assists only those who



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are vigilant, and not those who sleep over their rights.

**WEB C THE BRIEF FACTS OF THE CASE:**

3.The writ petitioner's deceased husband was employed in Chennai Metropolitan Water Supply and Sewerage Board and he worked for 18 years. The petitioner's husband died in harness on 03.10.1994 leaving behind the petitioner and their three minor children.

4.According to the petitioner, as the amount of pension received by her was in-sufficient to maintain her family, she made an application on 27.08.1998 for appointment on compassionate ground and the said application was not disposed of. At the time when the petitioner made the application her children were minors and after her son became major she made a representation on 30.04.2009 for appointment of her son, which was also not disposed of.

5.The petitioner's further case was that when she came to know that the Board is recruiting persons, she immediately made a representation on 15.03.2017 and sought appointment for her major son. The said



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representation was disposed of by the impugned order dated 21.03.2017 on

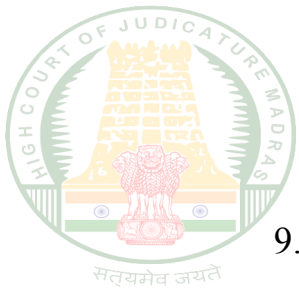
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the ground that the representation was made beyond the period of three years stipulated in G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995.

6.A detailed counter was filed in the writ petition. The respondents disputed the submission of the representation dated 28.07.1998 and further stated that the application dated 30.04.2009 was submitted with false information and fabricated documents.

7.The respondents contended that the application was hopelessly barred by limitation as it was filed after 14 years from the date of death of the deceased employee. It was the respondents further contention that the very fact that the application was filed long after the death of the employee, it would be vividly clear that the family was not in an indigenous situation.

8.Heard the learned counsel for the appellants as well as the respondent and the records have been perused.

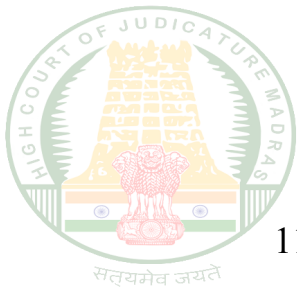


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9.The learned counsel for the appellants submitted that the application of the petitioner for compassionate appointment was hopelessly barred by limitation as the same was filed after a lapse of 14 years from the date of death of the employee (03.10.1994). The learned counsel further submitted that the learned Judge was not right in observing that the appellants by resorting to pick and choose method were discriminating the petitioner in the matter of appointment on compassionate grounds. The learned counsel submitted that the observation of the learned Judge that G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995 was not given serious consideration by the appellants in as much as the petitioner was able to establish that the applications of several persons when submitted beyond the time stipulated in the G.O. were entertained is untenable on the facts of the case.

10.The learned counsel for the appellants submitted that the learned Judge had not gone into the issue of delay and laches, even though the said plea was raised in the counter affidavit. The learned counsel therefore prayed that the writ appeal may be allowed.



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11. In contra, the learned counsel for the respondent submitted that the appellants were indulging in pick and choose method and several persons who had filed their application belatedly were given appointment and drew the attention of the Court to the page No.74 of the typed set of papers in support of the said contention. The learned counsel therefore prayed for the dismissal of the writ appeal. According to him there were no merits in the appeal.

12. The short issue that arises for consideration before us is whether the petitioner's claim for compassionate appointment is legally sustainable or not.

13. As the learned counsel for the respondents raised the issue of discrimination on 16.03.2022 an order was passed by this Court as hereunder:

*“5. Learned Additional Advocate General appearing for the Appellants/CMWSSB shall ascertain as to whether compassionate appointments were made after the year 2017 till 2021, and if so, the list of Officials who have appointed such candidates need to be furnished, with the indication as to whether they are in service or not.”*



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14. In pursuance of the said order the appellants submitted a report wherein at page Nos.14, 15 and 16 the details of appointment as sought for by this Court in the order dated 16.03.2022 were furnished. In the said report, which is deposed by the General Manager, CMWSSB, it is clearly stated that the appellants or any of its officials never committed any illegality in making compassionate appointment and that they have acted as per the orders of the Hon'ble Court in a specified cases.

15. Be that as it may, it is to be seen whether the respondent has made out a case for compassionate appointment. Though the respondent stated in the writ petition that her husband died on 03.10.1994 and she made an application on 28.07.1998 for appointment on compassionate ground, the same was denied by the appellants. The appellants in their counter in several paragraphs have vehemently denied the receipt of the application dated 28.07.1998. The appellants in paragraph No.14 of the counter have categorically stated that the first application that was submitted by the petitioner was on 30.04.2009, after a lapse of 14 years from the date of death



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of the employee and that the said application was submitted along with false

and fabricated documents.

16.It is pertinent to extract here paragraph Nos.8 and 12 of the counter affidavit filed by the appellants in the writ petition.

*“8.It is submitted that the petitioner has not approached this Hon'ble Court with clean hands. He has submitted before this Hon'ble Court that many applications were submitted claiming appointment to him on compassionate ground on many occasion. To substantiate such false claim, he has submitted forged documents. The applications allegedly submitted were neither acknowledged nor possessed the proof for registration. She has alleged that an application was submitted on 28.07.1998. She is misleading this Hon'ble Court as no such application was received in this office. Her petition deserved to be dismissed devoid of facts and merits. She has filed this Writ Petition relying on forged documents.*

*12.It is submitted that after a lapse of 14 years after the death of the employee, his wife Tmt.Chindamani submitted an application on 30.04.2009 to the General Manager to provide*





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*appointment on compassionate ground. This was the first application submitted by the family with false information and fabricated documents. But the application given was barred by limitations. Hence rejected and the file was disposed under 'K' Disposal on 03.09.2009. She furnished copy of letters allegedly to have been submitted on 28.07.1998. She is misleading this Hon'ble Court as no such application was received in this office. Her petition deserved to be dismissed devoid of facts and merits. She has filed this Writ Petition relying on forged documents."*

17. When such a categorical stand is taken by the appellant, it is surprising nay astonishing that no rejoinder was filed denying the said imputations by the respondent. If really the respondent had submitted an application as early as on 28.07.1998, she would have filed some document in the form of an acknowledgment in proof of such submission. The failure of the respondent in denying such serious imputations raises a doubt as to the genuineness of the claim of the respondent, regarding the submission of the application dated 28.07.1998. Therefore, it is presumed that the first application that was received by the appellants was the application dated 30.04.2009. The said application was submitted 14 years after the death of



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the deceased employee and therefore as rightly contended by the appellants

WEB COUNSEL the same is hopelessly barred by limitation. The learned Judge has failed to discuss the issue of delay and laches eventhough it was raised in the counter and has allowed the writ petition.

18.Appointment on compassionate grounds is not driven by sympathy, but compliance of the parameters laid down by law are essentially to be satisfied.

19.It would be relevant to note here few Judgments of the Hon'ble Supreme Court in this regard. In the case of *State of Jammu & Kashmir and others v/s. Sajab Ahamed Mir* reported in *2006 (5) SCC 766*, it was held that the appointment on compassionate ground is an exception to general rule of appointment to public office which is based on competitive merits. The Hon'ble Supreme Court in the said Judgment dismissed the claim for compassionate appointment on the ground of delay and laches. The Hon'ble Supreme Court further held that there was no need to make appointment on compassionate grounds at the cost of interest of several others ignoring the mandate of Article 14 of the Constitution of India, when it was proved that the family had overcome the crisis.



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WEB COPY 20. The Hon'ble Supreme Court in the case of ***Punjab State Power Corporation Limited and other Vs. Nirval Singh*** reported in ***2019 6 SCC 774*** has categorically held that the delay in pursuing the claim/approaching Court would militate against claim for compassionate appointment as the very objective is to provide immediate amelioration to the family. In the said case also the claim for compassionate appointment was rejected on the ground of delay.

21. In a more recent Judgment of the Hon'ble Supreme Court in the case of ***Steel Authority of India Vs. Gouri Devi***, the Hon'ble Supreme Court has reiterated the above principles and rejected the application filed for compassionate appointment made after 18 years on the ground of delay and laches.

21. It is now fairly well settled that there is no vested right to compassionate appointment and such right cannot be exercised at the whim and fancy of the claimant. The claim for compassionate appointment is circumscribed by the scheme for compassionate appointment. It is also well



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settled that the object behind appointment on compassionate ground is to enable the family to tide over the sudden financial crisis into which it is pushed and not to provide employment on the mere death of the employee. Fruitful reference can be made to the Judgement of the Hon'ble Supreme Court of India in the case of *Umesh Kumar Nagpal Vs. State of Haryana and others* reported in (1994) 4 SCC 138 and to the case of *Managing Director, MMTC Ltd., New Delhi and another Vs. Pramoda Dei alias Nayak* reported in (1997) 11 Supreme Court Cases 390 in this regard.

22. On the facts and circumstances of the case and the law on the subject, the order passed by the learned Judge is set aside and the writ appeal is allowed. There shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

[S.V.N.,J.] [N.M.,J.]  
06.06.2022

Index : Yes / No  
Internet : Yes / No  
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To

1. The General Manager,  
Chennai Metropolitan Water Supply and Sewerage Board,



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No.1, Pumping Station Road,  
Chintadripet, Chennai – 600 002.

2.The Chairman and Managing Director,  
Chennai Metropolitan Water Supply and Sewerage Board,  
No.1, Pumping Station Road,  
Chintadripet, Chennai – 600 002.

**S.VAIDYANATHAN, J.**  
**&**  
**N.MALA, J.**

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**PRE DELIVERY JUDGMENT**  
**IN W.A.No.550 of 2022**  
**and C.M.P.No.4051 of 2022**



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**06.06.2022**