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W.A.No.278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.278 of 2023

J.Christopher

... Appellant

-Vs-

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Transport Department, Secretariat,
Chennai - 600 009.

2. The Transport Commissioner,
Chepauk,
Chennai - 600 009.

3. The Regional Transport Officer (South),
Peelamedu,
Coimbatore - 641 004.

4. V.R.Devarajan

... Respondents

PRAYER : Appeal under Clause XV of Letters Patent against the order dated 27.09.2022 made in W.P.No.31059 of 2016.

For Appellant : Mr.S.Shrish
for Mr.N.Manoharan

For Respondents : Mr.R.Kumaravel
Additional Govt. Pleader for R1-R3

J U D G M E N T



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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 27.09.2022 made in W.P.No.31059 of 2016.

2. That the appellant was the writ petitioner whose mother Smt.D.Gracy was working as a Superintendent of the third respondent office and she died in harness on 04.10.2005.

3. Thereafter, the appellant / petitioner has given an application seeking compassionate appointment on 25.09.2008. Since the appellant / petitioner was the adopted son of the deceased employee, the application was kept pending by the respondent Department seeking for a proof that he has been the adopted son of the deceased employee and the proper legal heir to claim the compassionate appointment.

4. Therefore, the appellant / petitioner had approached the competent Civil Court and filed the civil suit in O.S.No.2700 of 2008 on the file of the I Additional District Munsif Court, at Coimbatore where a declaratory decree has been passed on 15.09.2010 declaring that the appellant / petitioner is the legal heir of the deceased employee. Based on which the Regional Transport



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Officer, Coimbatore (South) had forwarded the communication to the second

respondent herein, i.e., Deputy Transport Commissioner at Coimbatore on

30.08.2011 where he has stated the following:

"பார்வையில் கண்ட மனுவின்படி திருமதி டி.கிரேஸி, கண்காணிப்பாளர் 4.10.2005ல் காலமானதை அடுத்து கோவை முதன்மை நீதிமன்றம் அவர்களின் வழக்கு எண்.2700/2008ன் படி நாள் 15.09.2010ல் வாரிகதாரர்களாக அறிவிக்கப்பட்ட செல்வன் ஜெ.கிறிஸ்டோபர் அவர்கள் கருணை அடிப்படையில் வாரிக பணிகேட்டு விண்ணப்பித்துள்ளார்.

அண்ணாரின் விண்ணப்பத்தினை மேல் நடவடிக்கை எடுக்கும் பொருட்டு அசலாக இணைத்து அனுப்பியுள்ளேன் என்பதை பணிவுடன் தெரிவித்துக்கொள்கிறேன்."

5. Therefore, the documents pertaining to the claim made by the appellant / petitioner with the civil Court decree having the force of declaratory decree dated 15.09.2010 were forwarded by the Regional Transport Officer to the Deputy Transport Commissioner, Coimbatore as early as on 30.08.2011 to take action to decide the claim made by the appellant / petitioner for seeking compassionate appointment, however nothing seems to have been moved from that end and it has been kept pending.

6. Subsequently after some years, the fourth respondent herein one



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Devarajan had filed two civil suits. One is O.S.No.2666 of 2013 and another is O.S.No.2512 of 2015 seeking certain relief including the permanent injunction not to give compassionate appointment to the appellant / petitioner or to one Selvi.J.Christiana and that the suits have been pending.

7. Citing the said reasons that those suits are pending as it has been informed by the said Devarajan through the legal notice, the claim made by the appellant / petitioner seeking compassionate appointment cannot be considered at this movement and it would be only considered after the issue is resolved by the civil Court in the pending suits. Communicating this, an order has been passed by the respondent Department on 23.03.2016 which is the order impugned before the writ Court.

8. The writ Court having heard the merits of the case has rejected the writ petition on the ground that since the civil suits were pending where the family dispute is yet to be decided and moreover, the deceased employee died as early as in 2005 and after 17 years, such claim of compassionate appointment cannot be made for such long years, the penurious circumstances of the family would have been vanished, therefore, on this ground, the learned Judge has rejected the writ petition through the impugned order dated 27.09.2022.



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9. We have heard Mr.S.Shrish, learned counsel appearing for the appellant and Mr.R.Kumaravel, learned Additional Government Pleader appearing for the official respondents. In view of the order that is going to be passed in this appeal, notice to the fourth respondent is hereby dispensed with.

10. Insofar as the claim of compassionate appointment is concerned, whether the appellant was the legal heir of the deceased employee was the only question which in fact has been resolved by the civil Court in a declaratory decree made in O.S.No.2700 of 2008 dated 15.09.2010.

11. This factor has been brought to the notice of the respondents which become evident because of the intercommunication between the Regional Transport Officer and the Deputy Transport Commissioner dated 30.08.2011.

12. When that being so, based on the declaratory decree secured by the appellant / petitioner, the application for compassionate appointment ought to have been considered on merits and decided then and there. However, for five more years, the same had been kept pending and in the meanwhile, since the fourth respondent has filed the suits which were pending, citing the pendency of those suits, now the rejection order has been passed only on 23.03.2016 stating



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that the civil suits are pending, therefore it cannot be decided now.

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13. In this context, the issue has already been resolved by the civil Court by declaratory decree dated 15.09.2010 that become final as no appeal seems to have been filed against the said declaratory decree. When that being so, mere pendency of the subsequent suits instituted by the fourth respondent cannot stand in the way.

14. But at the same time, since 17 years have lapsed as stated by the learned Single Judge of the writ Court in the order impugned, whether still the family of the appellant / petitioner is in penurious circumstances which requires a support of giving a compassionate appointment by the respondent Department is the question to be answered for which the certification to be issued in this regard by the Tahsildar concerned, after verifying the family circumstances of the appellant, necessarily has to be obtained by the appellant and be produced by him, based on which, the application of the appellant / petitioner can very well be reconsidered and decided on merits and in accordance with law.

15. In that view of the matter, this Court is inclined to dispose of this writ



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appeal with the following orders:

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(i) that the order impugned before the writ Court dated 23.03.2016 is set aside and the order impugned dated 27.09.2022 therefore is also to be set aside and it is set aside, as a result of which, there shall be a direction to the official respondents to reconsider the application submitted by the appellant / petitioner on 25.09.2008 and subsequent reminders and additional particulars including the civil Court decree dated 15.09.2010 made in O.S.No.2700 of 2008 on the file of the I Additional District Munsif Court, Coimbatore and after hearing the fourth respondent, a decision can be made depending upon the penurious circumstances of the family of the appellant / petitioner for which necessary certificate from the Tahsildar concerned can be secured and produced by the appellant / petitioner.

(ii) On such certification is made and produced by the appellant / petitioner, the needful as indicated above can be undertaken by the respondents within a period of two months thereafter.

(iii) In view of the aforesaid order, any consequential rejection order made by the respondent Department, especially the order dated 23.11.2022 since become *otiose*, will not stand in the way in complying the orders as directed above.

16. With these directions, this Writ Appeal is disposed of accordingly.



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However, there shall be no order as to costs.

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(R.S.K., J.) (A.D.M.C., J.)
15.04.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To



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