

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.20512 of 2015 and  
M.P.No.1 of of 2015

N.Devaraj

...Petitioner

Vs.

The General Manager,  
Chennai Metropolitan Water Supply and Sewerage Board,  
No.1, Pumping Station Road,  
Chinthadripet, Chennai - 600 002.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the respondent in his Letter No.Se.Ku.Va./Pa.Ma.Ni./Ni.Ma.4/49299/2013 dated 19.12.2013 and quash the same and consequently direct the respondents to forthwith appoint the petitioner on compassionate ground in any suitable vacancy according to his qualification.

For Petitioner : Mr.K.Raja

For Respondent : Mr.Jothi Kumar, Govt. Advocate

O R D E R

Mr.Jothi Kumar, learned Government Advocate takes notice for the respondents. In the light of various judgments passed by this Court on the same issue, the matter is taken up for final disposal.

2. The mother of the petitioner was an employee in Area 1, Kodungaiyur Sewage Farm, CMWSSB, Chennai. While she was working, the lorry belonging to the respondents crushed her and she lost her life in the course of employment on 28.08.1986. She left behind her two sons and one daughter as her legal heirs. The petitioner has claimed compassionate appointment. The same is declined by the impugned order dated 19.12.2013 on the ground that there is a huge delay.

3. The learned counsel for the petitioner placed reliance on the judgment of the Madurai Bench of this Court reported in CDJ 2014 MHC 5065 [G.Karthikeyan v. The Secretary, Revenue Department, Chennai &

others].

4. Heard the learned counsel for the petitioner.

5. I am of the considered view that the claim of the legal heirs of the Government servant, who died during the course and arising out of employment shall constitute a clause by itself. It cannot be compared with a case of a legal heir of a Government servant, who died during his service. The State cannot take technical objections in the case of providing compassionate appointment to the legal heirs of a Government servant, who died during the course and arising out of employment.

6. In the case of former, it is a mandate of the Government to guarantee the livelihood of the family, which lost the breadwinner-the Government servant in the accident that arose out of and in the course of employment. Failure on the part of the Government to do so is arbitrary and violative of Articles 14 and 21 of the Constitution. Hence, I am of the view that it is a mandate on the part of the Government to provide compassionate appointment to one of the legal heirs of the Government servant, who died due to accident that arose out of and in the course of employment and the Government shall relax all the rules in those cases.

7. Since in this case, the mother of the petitioner unfortunately died in the accident that arose out of and in the course of employment, the State is bound to provide compassionate appointment to the petitioner. Hence, the impugned order is quashed and a direction is issued to the respondent to provide compassionate appointment to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition stands allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

svki/gg

The General Manager,  
Chennai Metropolitan Water Supply and Sewerage Board,  
No.1, Pumping Station Road,  
Chinthadripet, Chennai - 600 002.

+1 cc to Mr.K.Raja, Advocate (sr.34604)

W.P.No.20512 of 2015

ca(co)

cp 09/10/2015