

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.8.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.1262 of 2015

V.Babu

Appellant/Petitioner

Versus

- 1 The Secretary to Government  
State of Tamil Nadu  
Transport Department  
Fort St. George Chennai-600 009.
  - 2 The Director  
The Tamilnadu Motor Vehicle Maintenance  
Department  
Velacheri Chennai-600 042.
  - 3 The District Collector  
Kancheepuram District Kancheepuram.
- Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 23.4.2015 passed in W.P.No.10248 of 2015 on the file of this court.

WP.No.10248 of 2015:Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent made in Na.Ka.15745/ 2014 dated 7.1.2015 and to quash the same and consequently directing the respondents to appoint the petitioner to Post of Junior Assistant in terms of Clause 2(iii) of G.O.Ms.No.1499 Labour and Employment (Q1) Department dated 3.8.1989 in any of the office of the respondents Workshop/ Office or in any office coming within the jurisdiction of 3rd respondent

For appellant : Mr.M.Kalyanasundaram, Senior Counsel  
for M/s.V.Srinivasan  
For Respondents : Mr.P.S.Sivashanmugasundaram,  
Special Govt. Pleader

#### JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the writ petitioner seeking to modify the order passed by the learned Single Judge in W.P.No.10248 of 2015.

3. The appellant/writ petitioner challenged the order passed by the second respondent rejecting his representation seeking appointment as Junior Assistant on compassionate grounds in view of the death of this father, who worked in the workshop of the second respondent. Though his case was considered by the learned Single Judge for appointment as Junior Assistant on compassionate basis, the appellant is aggrieved over the observation by the learned Single Judge to the effect that his case should be considered, after considering the claim of persons, who are in the waiting list prior to the petitioner and hence, the present writ appeal has been filed.

4. The learned counsel for the appellant relies upon G.O.Ms.No.1499 of Labour and Employment Department, dated 3.8.1989 in support of the claim of the appellant that he should be considered for appointment to the post of Junior Assistant on priority.

5. On perusal of the entire records, we are of the view that the learned Single Judge has already considered the case of the appellant/writ petitioner in proper perspective. Of course, the G.O. referred to above prescribes that a dependant appointed to a lower post like Record Clerk, Office Assistant and Sweeper on compassionate grounds but possess the qualification required for the post of Junior Assistant at the time of initial appointment to a lower post may be appointed as Junior Assistant/Typist. But, the words 'may be appointed' do not equate with the words 'shall be appointed' and hence, it is only discretionary on the part of the appointing authority and not a mandate. Rules prescribed for appointment and seniority also

need to be taken care for granting appointment on compassionate grounds.

6. Even otherwise, the learned Single Judge has given direction for consideration of the case of the writ petitioner/appellant, for the vacancy that would arise in future, as per his entitlement. In view of the above, the writ appeal is disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk

To:

- 1 The Secretary to Government  
State of Tamil Nadu  
Transport Department  
Fort St. George Chennai-600 009.
- 2 The Director  
The Tamilnadu Motor Vehicle Maintenance  
Department  
Velacheri Chennai-600 042.
- 3 The District Collector  
Kancheepuram District Kancheepuram.

+1 cc to V.Srinivasan Advocate sr 48520

+1 cc to Government pleader sr 48664

W.A.No.1262 of 2015

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