



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.56 of 2015

M.S.Senthilkumar

: Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Limited,
Center Office, 23/2, Thoothukudi Road,
Kattapomman Nagar, C.M.Chaththiram,
Tirunelveli - 627 011.

2.The General Manager,
Tirunelveli Division,
Tamil Nadu State Transport Corporation (Tirunelveli) Limited,
19, Thiruvananthapuram Road,
Vannarpetti P.O., Tirunelveli.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider the petitioner case for appointment as Assistant Engineer (Mechanical) on compassionate grounds based on petitioner's educational qualification.

For Petitioner : Mr.K.Vamanan

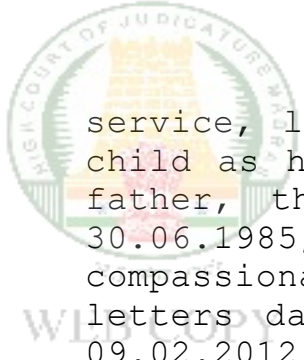
For Respondents : Mr.K.Sathiya Singh

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's case for appointment as Assistant Engineer (Mechanical) on compassionate grounds, based on his educational qualification.

2.Heard the learned counsel appearing for the petitioner and the learned counsel, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The case of the petitioner is that the petitioner's father Mr.C.Manikanda Prasath, who was a conductor under the respondent Corporation (earlier known as Kattapomman Transport Corporation Limited) from the year 1972 to 1987, died on 04.11.1987, while in



service, leaving behind his wife, two male children and a female child as his legal representatives. As on the date of death his father, the petitioner was a minor and his date of birth is 30.06.1985, he could not apply for the job on the ground of compassionate appointment. The respondent Corporation by the letters dated 23.07.2002, 07.02.2003, 19.04.2003, 16.12.2004 and 09.02.2012, have responded to the request of the petitioner, stating that his application is in the waiting list and whenever vacancy arises, they will consider his claim. As the claim was not considered, this writ petition has been filed.

4.The learned counsel for the respondents would submit that the petitioner made the application belatedly and hence it cannot be considered. This contention is unsustainable, in view of the response and assurance given by the respondent that the petitioner is in waiting list as his case would be considered in due course.

5.The learned counsel for the petitioner relied upon the Judgment of this Court in W.A(MD)No.1400 of 2011, dated 16.12.2015, where-under, in paragraph No.3, it has been held as follows:

"3.It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However, taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for appointment on compassionate ground, on attaining majority, the respondents have to consider the appellant's application for appointment on compassionate ground".

6.In this case also, the petitioner was prevented from applying for appointment within a period of three years from the date of death of his father, on account of his minority. The petitioner has believed that his name was in the waiting list and he shall be considered for the compassionate appointment as per the letters sent by the respondent. Under such circumstances, the claim of the petitioner shall be considered in the light of the Judgment passed by this Court, referred to supra. Accordingly, the respondents are directed consider the petitioner's case for compassionate grounds, suitable to his educational qualifications, in the light of the Judgment of this Court made in W.A(MD)No.1400 of 2011 dated 16.12.2015, within a period of six



weeks, from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of.
No costs.

WEB COPY

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

+1cc to Mr.K.VAMANAN, ADVOCATE SR.No. 62628

+1cc to M/s.K.SATHIYA SINGH, ADVOCATE SR.No. 62151

SMN

JAM-DB-SAR-1/8.11.2016/3P:3C

ORDER MADE IN
W.P (MD) No.56 of 2015
20.10.2016