



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2016

CORAM

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.17627 of 2016

S.Senthuloor Kani

... Petitioner

vs.

The General Manager (O & A),
Tamilnadu State Express Transport Corporation Ltd.,
Chennai.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in his proceedings notice No.TP1470/M.V2/AVPoKaTN/2013 dated 26.05.2015 and to quash the same and consequently direct the respondent to appoint petitioner in any suitable post in the respondent corporation based on the petitioner educational qualification.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.K.Sathiya Singh

Standing Counsel for Respondent

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus, to call for the records of the respondent in proceedings notice No.TP1470/M.V2/AVPoKaTN/2013 dated 26.05.2015 and to quash the same and consequently direct the respondent to consider the case of the petitioner for appointment on compassionate grounds.

2.The petitioner's father is one Selvaraj. Before his death, he was serving under the respondent as Conductor. He died in harness on 27.04.2001 leaving behind the entire family. By the time when the petitioner's father died, petitioner was aged 7 years and her elder sister was also a minor. The petitioner's father was the only breadwinner of the family and he left the family in indigent circumstances. Since the mother of the petitioner has no educational qualification, she has not applied for appointment on compassionate grounds. Petitioner's elder sister Abirami also has given no objection affidavit for the



appointment. The petitioner is eligible to ask for appointment having regard to the age and qualification.

3. The petitioner's request for compassionate appointment has been rejected on the ground that the petitioner ought to have filed the application within a period of 3 years from the death of her father and hence her claim for compassionate appointment cannot be considered. This order is under challenge in this writ petition.

4. The learned counsel for the petitioner relied upon a decision of a Division Bench of this Court in **W.A. (MD) No. 1400 of 2011, dated 16.12.2015**, wherein, in paragraphs 3 and 4, it has been held as under:

"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.

4. In view of the above, the Writ Appeal is allowed and the order of the learned Single Judge and also the order of rejection for appointment on compassionate ground are set aside and the matter is remanded to the first respondent for fresh disposal, in the light of the judgment passed by this Court. Such exercise shall be completed, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs."

4. So far this case is concerned, the learned counsel for the petitioner would submit that the petitioner's family is living in a penurious circumstance and without considering the same the authorities have chosen to reject the claim for compassionate appointment.



5.It is relevant to point out that the observation made in the same judgment that if the appellant 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. This aspect has not been considered by the respondent at all. Under such circumstances, the order passed by the Division Bench of this Court in W.P(MD)No.1400 of 2011, dated 16.12.2015 is squarely applicable to the facts of this case also.

6.Accordingly, this Writ Petition is allowed and the impugned order of the respondent in No.TP1470/M.V2/AVPoKaTN/2013 dated 26.05.2015, is set aside and the matter is remanded to the respondent for fresh disposal, in the light of the judgment of the Division Bench of this Court in **W.A. (MD)No.1400 of 2011, dated 16.12.2015**. Such exercise shall be completed, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

sj

To

The General Manager (O & A),
Tamilnadu State Express Transport Corporation Ltd.,
Chennai.

+1CC to Mr.K.Sathiya Singh, Advocate Sr.No.53885

+1CC to Mr.B.Prahalad Ravi, Advocate Sr.No.53352

GJM/SS3/24.10.16-3p-4C

W.P (MD)No.17627 of 2016
19.09.2016