



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2016

C O R A M

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.18934 of 2016

M.Harikrishnan

.. Petitioner

Vs.

1.The General Manager,
State Express Transport Corporation,
Tamilnadu Ltd.,
Pallavansalai, Chennai - 2.

2.The Deputy Manager (O&A),
State Express Transport Corporation,
Tamilnadu Ltd.,
Pallavansalai, Chennai - 2.

.. Respondents

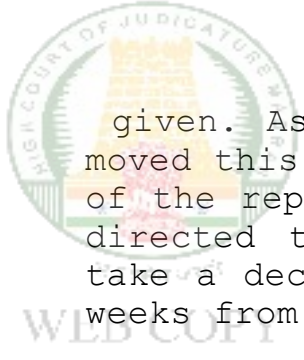
Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Koo.No.TP1824/M.V2/AVPoKa.TN/2015, dated 31.12.2015 and quash the same and consequently direct the respondents to appoint the petitioner in any suitable post in the respondent corporation based on petitioner's educational qualification.

For petitioner ... Mr.S.Loganathan
For Respondents ... Mr.K.Sathiyasingh

O R D E R

The petitioner's father was a driver employed in the Transport Department/Respondents at Sengottai Branch. The petitioner's father was the only bread winner of the family .

2.As the fate goes that the petitioner's father died in an accident that took place on 15.04.2009. Immediately thereafter, the mother made an application on 21.01.2010 seeking appointment on compassionate ground for her son, but he was a minor at that point of time. After attaining majority and after getting the qualification, the second representation dated 5.10.2015 has been



given. As the representation was not considered, the petitioner moved this court in W.P.(MD)No.20539 of 2015 seeking consideration of the representation. This Court, by the order dated 19.11.2015, directed the respondents to consider the representation and to take a decision in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

3. Consequent to the direction issued by this Court, the representation of the petitioner was considered. But the representation was rejected on the ground that the application for compassionate appointment was not given within a period of three years and that order is under challenge in this writ petition.

4. The contention of the petitioner is that question of out of time for applying on compassionate ground, does not arise for consideration, as it was filed within a period of three years.

5. The fact remains that the respondents would not have in a position to consider the request of the petitioner because the petitioner's son was a minor at that point of time. Therefore, the representation dated 05.10.2015 should be construed as a continuation of the application dated 21.01.2010.

6. The learned counsel for the petitioner also relied upon a decision of this Court in W.A.(MD)No.1400 of 2011, dated 16.12.2015, wherein it has been held that three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. If this dictum is applied to the facts of the present case, it is clear that the petitioner could not have applied within a period of three years, as the petitioner's son was a minor at that point of time. Still the application has been submitted in time. The application has been renewed after the minor attaining majority. Therefore, the impugned order is liable to be quashed.

7. Accordingly, the impugned order, dated 31.12.2015 of the second respondent is quashed. The respondents are directed to consider the application of the petitioner, dated 05.10.2015 and to provide appointment on compassionate ground subject to suitability of the candidate, within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



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To

1.The General Manager,
State Express Transport Corporation,
Tamilnadu Ltd.,
Pallavansalai, Chennai - 2.

2.The Deputy Manager (O&A),
State Express Transport Corporation,
Tamilnadu Ltd.,
Pallavansalai, Chennai - 2.

+1CC to Mr.S.Loganathan, Advocate Sr.No.58497

GJM/PV/7.11.2016-3p-4c

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