



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.1710 of 2011

and

M.P(MD)No.1 of 2011

P.Balamurugan

... Petitioner

vs.

1)The General Manager,
Tamil Nadu State Transport Corporation
Ltd., Chennai 600 002.

2)The Branch Manager,
Tamil Nadu State Transport Corporation
Ltd., Madurai Region,
Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in Memorandum No.TF1375/MaVa2/TNSTC/2008 dated 2.7.2008 and quash the same and consequently direct the respondents herein to consider the petitioner for any employment on compassionate ground in the respondent corporation.

For Petitioner : Mr.K.Appadurai
For Respondents : Mr.S.Baskaran

ORDER

P.Balamurugan, aggrieved by the impugned order dated 02.07.2008 passed by the 1st respondent refusing appointment on compassionate grounds on the ground that the petitioner has not made his application within the requisite time limit, has come to this Court challenging the same.

2.Learned counsel for the petitioner would submit that the petitioner's father Late A.Baluchamy, while serving as a Conductor in the 2nd respondent transport corporation died in harness on 25.07.1999 leaving behind the petitioner and 7 others, who are sisters of the petitioner and the petitioner is the only son of the deceased employee. With the consent of other legal heirs, the petitioner made an application on 28.05.2007 seeking compassionate appointment, but the 1st respondent rejected his request by the



impugned order on the ground that the request of the petitioner could not be considered as it is time barred.

3. Adding further, he would submit that the petitioner is eligible for appointment on compassionate grounds in the respondent department as per the rules, therefore, the impugned order passed on the ground that the petitioner has not submitted his application within three years from the date of becoming major, he pleaded, is liable to be set aside. It is also submitted that so far as making application for compassionate appointment is concerned, there is no time limit, therefore, the impugned order rejecting the case of the petitioner on the ground of delay is liable to be set aside, he pleaded.

4. A detailed counter affidavit has been filed by the respondents. Learned standing counsel appearing for the respondents would submit that when the petitioner's father Late. A. Baluchamy, Conductor working in the respondent corporation died on 25.07.1999 leaving behind his two wives, the petitioner and her sister, who were born through the first wife and six daughters born through the second wife of the deceased. However, there is no application filed within the requisite time limit seeking appointment on compassionate grounds. When it is admitted case that the petitioner became major in 2002, at least from the date of attaining majority in 2002 within three years, he should have made his application, however, only on 28.05.2007 the petitioner made an application for compassionate appointment, therefore, the same was rejected as it is barred by limitation.

5. Adding further, he would submit that had the petitioner really intended to join the service of the respondent on compassionate grounds, he would have made an application timely before the expiry of three years from the date on which he became major, however, he has made application only in the year 2007 that clearly shows that the family of the deceased employee was not living under poverty, therefore, the question of giving appointment on compassionate grounds does not arise. It is also submitted that even as per G.O(Ms)No.42, Labour and Employment(Q1) Department, dated 12.03.2007, which states that the existing time limit of three years for filing application from the date of death of the Government servant shall be continued, no application has been filed within three years time limit from the date of death of the deceased employee, or at least, even after becoming major in the year 2002, the petitioner has not made his application within three years, therefore, looking at the case of the petitioner in any angle, he pleaded, no error can be found in the impugned order.

6. This Court fully agreeing with the submission made by the respondents is not inclined to entertain this writ petition. Firstly, when the petitioner's father died on 25.07.1999, the petitioner was a minor and no one on his behalf, made an application for compassionate appointment within three years from the date of death of his father. Secondly, when the petitioner has taken a ground that he was a minor aged about 16 years on the date of death of his father, at least on attaining majority in the year 2002, within three years therefrom, he ought to have made an application



for appointment on compassionate grounds, which he has not done, therefore, this Court is not inclined to interfere with the impugned order as there is no error therein.

Accordingly, the writ petition is dismissed. No costs. M.P (MD)No.1 of 2011 is closed.

WEB COPY

Sd/-
Assistant Registrar (Records)

/TRUE COPY/

Sub Assistant Registrar

To

1) The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Chennai 600 002.

2) The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Region, Madurai.

+1cc to M/S.K.APPADURAI, ADVOCATE SR NO: 32203

+1cc to M/S.S.BAKARAN, ADVOCATE SR.NO: 32648

nbi

JA-ARK-PV-05.07.2016/2P:5C

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