

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.21583 of 2014
and M.P.No.1 of 2015

C.Easwaran

...Petitioner

vs.

1. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai-5.
2. The Divisional Manager,
Highways Rural Public Works,
Saidapet Division.
3. Assistant Divisional Engineer,
Highways Department,
Ponneri-601 204.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to directing the respondents to consider the representation of the petitioner dated 12.06.2014 and in the light of the order in Mohanabal v. Director of Land Survey Department, Kanchipuram.

For Petitioner : Mrs.R.Nirmala Devi

For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would aver that the father of the petitioner, while working as Road Mazdoor (Salai Paniyalar) in the office of the third respondent, died on 02.10.1995, leaving behind the mother of the petitioner, 3 daughters and 3 sons which include the petitioner, as legal heirs. The petitioner was aged about 13 years at the time of demise of his father. The petitioner's mother immediately submitted an application in

the year 1996 seeking appointment on compassionate grounds to herself and it was not considered and disposed of and on attaining majority by the petitioner, she submitted an application seeking appointment to the petitioner on compassionate grounds and it came to be rejected on the ground that the application has not been submitted within 3 years from the date of demise of his father.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the decision in Mohanambal v. The Director of Land & Survey Department, Kancheepuram and Others [CDJ 2011 MHC 1059] and would submit that this Court in the above decision, by referring to various judgments rendered by the Hon'ble Supreme Court, has considered the similar issue and remanded the matter to the respondents therein to consider the claim of the petitioner therein and therefore, prays for similar orders.

4. Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit and would submit that though the mother of the petitioner submitted application in the year 1996, no documents have been enclosed and in terms of G.O.Ms.No.120, Labour and Employment Department dated 26.06.1975 if the application was submitted beyond a period of 3 years, it could not be entertained and admittedly, in respect of the petitioner, the application came to be submitted after 3 years from the date of demise of his father and as such, his claim cannot be considered and prays for dismissal of the writ petition.

5. In response to the same, the learned counsel appearing for the petitioner would submit that the family of the petitioner continuous to be in indigent circumstance and it should be the sole factor to be considered in respect of appointment on compassionate grounds.

6. This Court, after considering the rival submissions, is of the view that it would suffice to direct the respondents to consider and dispose of the petitioner's representation dated 12.06.2014 in the light of the above cited judgment.

7. This Court, without going into the merits of the claim projected by the petitioner, directs the petitioner to submit a

fresh representation to the respondents 1 to 3 along with a copy of this order as well as copy of the above cited judgment within a period of four weeks from the date of receipt of a copy of this order and the first respondent, on receipt of the same, is directed to consider and pass orders within a period of eight weeks thereafter and communicate the decision taken, to the petitioner.

8. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai-5.
2. The Divisional Manager,
Highways Rural Public Works,
Saidapet Division.
3. Assistant Divisional Engineer,
Highways Department,
Ponneri-601 204.

+1cc to Mr.Nirmala Devi, Advocate, S.R.No.6025
+1cc to the Government Pleader, S.R.No.6257

SK(CO)
RS(15/02/2017)

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