IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.16011 of 2013

E.Surendar .. Petitioner

Vs.

1.The Tamil Nadu Civil Supplies Corporation
Limited rep. by its Chairman and
Managing Director,
No.12, Thambusamy Street,
Kilpauk, Chennai - 10.

2.The General Manager (Administration),
The Tamil Nadu Civil Supplies Corporation
Limited,
No.12, Thambusamy Street,
Kilpauk, Chennai - 10.

3.The Senior Regional Manager,
The Tamil Nadu Civil Supplies Corporation
Limited, District Collectorate Campus,
Nagapattinam - 611 001.

4.The Manager (Engineering),
The Tamil Nadu Civil Supplies Corporation
Limited, Sitharkadu,
Mayiladuthurai. .. Respondents

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 of the second respondent in Na.Ka.No.AE9/030065/2012 dated 07.05.2013 and to quash the order dated 07.05.2013 and consequently directing the respondents herein to provide employment for the petitioner on compassionate grounds.

For Petitioner .. Mr.M.Sivavardhanan

For Respondents.. Mr.C.Munusamy RR1 to 4

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ORDER

Challenging the order of the second respondent dated 07.05.2013 and for a consequential direction to the respondents to provide employment to the petitioner on compassionate grounds, the present writ petition has been filed.

2.The petitioner's father was working as Assistant Operator at Modern Rice Mill, Sitharkadu, Mayiladuthurai, belonging to the first respondent Corporation. The petitioner's father died while in service on 01.07.1995. At that time, the petitioner herein was a minor. However, the petitioner's mother had submitted a request for compassionate appointment to the fourth respondent on 10.07.1995. According to the petitioner, no action was forthcoming from the fourth respondent. In the meanwhile, the petitioner had also attained majority on 17.08.2010 and completed his schooling in 2012. After having qualified in the school final, the petitioner's mother revived her representation, seeking compassionate appointment for the petitioner by submitting a fresh application on 17.04.2012.

3.In response to the request submitted by the petitioner's mother on 17.04.2012, an order was issued by the second respondent on 07.05.2013 stating that the application seeking compassionate appointment had been made after 18 years from the death of the petitioner's father. The said proceedings is impugned in the present writ petition.

4.Learned counsel appearing for the petitioner would submit that the rejection of request on the ground of delay runs contrary to the letter and spirit of the scheme for compassionate appointment since the authorities failed to look into penurious and indigent circumstances the family of the deceased employee is placed for all these years. The summary rejection of the request made on behalf of the petitioner on the technical ground of delay is arbitrary. In any event, it is incumbent on the authority to consider the claim of the petitioner on the basis of its own merits and in accordance with law. Learned counsel for the petitioner would also submit that there are several decisions of this Court, which held that the application submitted after attaining majority by the children of the deceased employee can be entertained. This Court has no quarrel over the said proposition laid down by this Court, as submitted by the learned counsel for the petitioner.

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5.Upon notice, Mr.C.Munusamy, learned counsel entered appearance on behalf of the respondents and filed counter statement. According to the contents of the counter statement, initially an application was made immediately after the death of the employee on 10.07.1995. However, the petitioner's mother did not pursue her request for compassionate appointment and therefore, no orders were required to be passed. Since the second application was made on 17.04.2012 after a period of 18 years, the same was time barred and therefore, it was rightly rejected. In the said circumstances, he would say that no relief is required to be granted to the petitioner.

6.This Court has considered the rival submissions of the learned counsels for the parties and perused the documents and the pleadings thereof. Although it is an admitted fact that the second application said to have been submitted by the petitioner's mother was nearly after 17 years after the death of the employee in 1995, however, the summary rejection by the respondents on the ground of delay does not advance the spirit of the scheme providing employment on compassionate grounds. As stated by the learned counsel for the petitioner, it is incumbent on the authority to have a dispassionate view on the claim for compassionate appointment on the basis of the indigent circumstances of the family concerned. Therefore, it is needless to mention that summary rejection by the second respondent vide order dated 07.05.2003 cannot be countenanced in law and therefore, the same is quashed.

7.Hence there shall be a direction to the second respondent to consider the claim of the petitioner, seeking compassionate appointment on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

1.The Chairman and Managing Director,
Tamil Nadu Civil Supplies Corporation
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The Tamil Nadu Civil Supplies Corporation
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Mayiladuthurai.

+ 1 cc to M/s. M. Sivavarthanan, Advocate SR.51571
+ 1 cc to M/s. C. Munusamy, Advocate Sr.50684

W.P.No.16011 of 2013

RR(CO)
Eu 11.08.17

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