

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 09.06.2017
CORAM**

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**W.P. (MD) .No.6482 of 2014
and
W.M.P. (MD) . No.1 of 2014**

K.Elangovan

... Petitioner

Vs.

1. The Divisional Engineer,
Highways Department,
Building and Maintenance,
Sivagangai.

2. The Superintending Engineer,
Highways Department,
Building and Maintenance,
K.Pudur, Madurai.

3. The Principal Director,
Highways Department,
Chepauk, Chennai-5.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent issued in his reference கு.எண்.589/2012/ஆ2 dated 16.04.2012 and the 3rd respondent in the reference Memorandum No.நிர்1(2) 27675/2008/dated 09.03.2012 quash the same and direct the respondents to consider the petitioner's request for appointment on compassionate ground and appoint him in any one of the post suitable to the petitioner's qualification, B.E., Civil Engineering.

For Petitioner : Mr.D.Farjanaghousiya
for M/s.K.Muthumalai

For Respondents : Mr.N.S.Karthikeyan
Additional Government Pleader

O R D E R

This Writ Petition has been filed to quash the order of the third respondent dated 09.03.2012 and communicate to the first respondent by letter dated 16.04.2012.



2. The case of the petitioner is that the petitioner's father died on 01.01.2001, while he was in service in the Highways Department as Assistant. Since the petitioner was a minor, according to the petitioner, an application, dated 23.07.2003, was filed by the petitioner's mother, requesting compassionate appointment for her son, namely, the petitioner. Though this application was submitted in time during the pendency of application, the petitioner completed B.E. and his mother filed an application once again in 2007. This later application was considered by the third respondent and rejected on the ground that it was filed beyond the period of three years.

3. The learned Counsel for the petitioner relied upon the judgment of this Court in the case of **A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board** reported in **2013 (2) CWC 758** wherein this Court has held as follows:

"15. My learned Brother in his said decisions reviewed the case-law on the point and held that within 3 years of death of her husband, when the widow applied for appointment on compassionate ground, and due to bar of age, et., when she could not be appointed and the request for appointment has been followed by her son/daughter, who has then not attained majority, such request shall be considered as continuation of their mother's Application and the Application given by him/her during the minority also could be considered as continuation of such earlier Application and it cannot be denied on the ground that the Application has been presented beyond 3 years of death of the father."

4. In the present case the fact that the petitioner's mother had filed an application in 2003 is not in dispute. Even that application was only for her son namely, the petitioner. The petitioner has filed an application on 11.12.2007 within three years from the date on which the petitioner attaining majority. In such circumstances, the rejection of the petitioner's application on the ground that it is beyond the period of three years, is unacceptable as the original application submitted by the mother of the petitioner was in time and the respondents ought to have considered the application on merits. The learned Additional Government Pleader has submitted that the petitioner did not prove that his mother filed an application in the year 2003 within three years from the date of death of the petitioner's father.

5. The learned Counsel for the petitioner pointed out that the first respondent has admitted the first application, that was submitted by the petitioner's mother on 23.07.2003. In Paragraph 6 of the counter affidavit, the first respondent



categorically admitted that the application filed by the mother of petitioner on 23.07.2003. Hence the impugned order is liable to be quashed and the petitioner is entitled to succeed. The impugned order is quashed.

6. The respondents are directed to consider the application of the petitioner's mother, filed in the year 2003 and the application filed on 11.12.2007, purely on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Divisional Engineer,
Highways Department,
Building and Maintenance,
Sivagangai.
2. The Superintending Engineer,
Highways Department,
Building and Maintenance,
K.Pudur, Madurai.
3. The Principal Director,
Highways Department,
Chepauk, Chennai-5.

+1cc to M/s.K.Muthumalai, Advocate Sr.No.59582

+1cc to Spl.Government Pleader Sr.No.59782

SM/TA

VB/MR/SAR3/27.06.2017/3P/6C

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