



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.71 of 2017

A.Kodiammal @ Meenakshi

... Petitioner

vs.

1)The Managing Director,  
Tamil Nadu Transport Corporation Ltd.,  
Dindigul.

2)The Deputy Manager(Administration),  
Tamil Nadu Transport Corporation Ltd.,  
Dindigul.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents for the employment for her son in compassionate ground on the basis of her representation dated 04.08.2016.

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|-----------------|-----------------|
| For Petitioner  | : Mr.M.A.M.Raja |
| For Respondents | : Mr.A.Jayaram  |

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus, directing the respondents to provide employment to the petitioner's son on compassionate ground on the basis of her representation dated 04.08.2016.

2.The petitioner submits that her husband was found missing on 22.01.1999 and she made a complaint and that an FIR has been registered in Crime No.15 of 1999 on the very same day. After a period of seven years, the police have given a certificate that the missing person was not traceable. The petitioner approached the Civil Court and obtained a declaration, declaring her husband dead. Based on the declaration, the petitioner made a representation seeking compassionate appointment and also for settlement of her husband's terminal benefits. She filed W.P(MD) No.6180 of 2008 and this Court by order, dated 23.07.2016, directed the respondents to dispose of the representation of the petitioner seeking disbursement of her husband's terminal benefits, in accordance with law, after hearing the petitioner.



According to the petitioner, even though the respondents are ready to pay the terminal benefits, they are not willing to provide compassionate appointment. The petitioner also states that her earlier representation includes the request for compassionate appointment.

3.As the petitioner's husband was found not traceable by means of a certificate issued by the police dated 30.11.2006 and by judgment and decree in O.S.No.135 of 2007 dated 29.11.2007, declaring the husband of the petitioner dead, this Court cannot open the closed issue namely, with regard to compassionate appointment more particularly, after a period of 9 years. Appointment on compassionate grounds cannot be claimed as a matter of right.

4.At this juncture, it is relevant to point out paragraph No.20 of a decision reported in (2011) 4 SCC 209, Bhawani Prasad Sonkar vs. Union of India and others, wherein the Hon'ble Apex Court has held as follows:-

"20.Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i)Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii)An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii)An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv)Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

5.Even though the petitioner has contended that her earlier representation includes the relief of compassionate appointment and filed a writ petition in 2008, which was disposed of on 23.07.2016, but however, the petitioner restricted the relief only



to terminal benefits of her husband. Having given up the relief of compassionate appointment in the said writ petition, the petitioner cannot reopen the issue after the disposal of the writ petition. However, this order will not preclude the petitioner from getting the terminal benefits if the claim is otherwise in order.

With the above observation, this Writ Petition stands dismissed. No costs.

Sd/

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1)The Managing Director,  
Tamil Nadu Transport Corporation Ltd.,  
Dindigul.

2)The Deputy Manager(Administration),  
Tamil Nadu Transport Corporation Ltd.,  
Dindigul.

+1CC to M/S.M.A.M.Raja, Advocate, SR.No. 956

W.P. (MD) No.71 of 2017  
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