



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

Coram:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.7768 of 2016

and

W.M.P (MD) No.6428 of 2016

A.Muthugopal

...Petitioner

-Vs-

1. The Director,
Adi Dravidar and Tribal Welfare Department,
Chepauk, Chennai-5.
 2. The District Adi-Dravidar & Tribal Welfare Officer,
Virudhunagar District,
Virudhunagar.
 3. The Special Tahsildar (ADW),
Srivilliputhur,
Virudhunagar District.
- ...Respondents

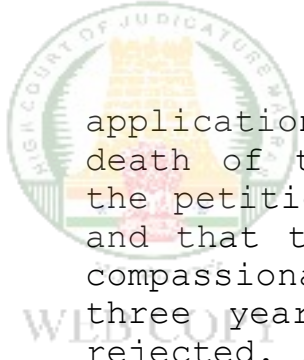
Prayer: This Writ Petition filed under Article 226 of the Constitution of India, issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent herein in Na.Ka.No.E5/12043/2015, dated 12.04.2016 and quash the same as illegal and consequently directing the respondents herein to appoint the petitioner in a suitable post based on his educational qualification on compassionate appointment within a stipulated period as to be fixed by this Court.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.M.Murugan
Government Advocate

ORDER

This writ petition has been filed for issuance of writ of Certiorarified Mandamus to quash the proceedings of the first respondent, dated 12.04.2016 and consequently direct the respondents to appoint the petitioner in suitable posts on compassionate ground. By the impugned order, dated 12.04.2016, the application filed by the petitioner for appointment on compassionate ground was rejected only on the ground that the



application is beyond the period of three years from the date of death of the employee. The respondent has further observed that the petitioner's father died when the petitioner was one year old and that the petitioner is not entitled to get an appointment on compassionate ground. Since the application was not filed, within three years, by the petitioner and the same is liable to be rejected. As per the guidelines issued by the Government when the application filed by the petitioner's mother was pending, fresh application in the name of the petitioner cannot be considered.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

3. All the three reasons stated by the respondents for rejecting the application is totally misleading. The fact remains that the petitioner's mother filed an application well within the time and it is not in dispute. The fact that the petitioner's application was filed within three years from the date of minor attaining majority is not in dispute. The application filed by the petitioner's mother was in process and the same had not been disposed of, till the petitioner filed an application.

4. It is submitted by the learned counsel for the petitioner that the application filed by the petitioner later can be treated as one in continuation of original application filed by the petitioner's mother in time. The Division Bench of this Court in **A. Kamatchi vs. The Chairman, Tamil Nadu Electricity Board, reported in 2013(2) CWC 758** as 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, etc., when she could not be appointed and the request for appointment has been followed by her son/daughter, who has then not attained majority and subsequently, applied within three years of attaining 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.

16. Now, cleared of the legal position, it is pertinent to note that within three years of her husband's death, Thirumalai, the mother of the Appellant has applied for her appointment on compassionate ground, she was not appointed for want of vacancy, so, she was not denied job, now, she cannot be



appointed because of her age, within three years of his attaining majority the Appellant had applied for appointment. The legal heirs of the deceased Employee, namely, Appellant's mother and his sister have also given their no objection for Appellant's appointment. The Appellant is also well within the eligible age for appointment. In the circumstances, the impugned Order of the Third Respondent, dated 1.2.2010 and of the Writ court, dated 13.09.2010 are unsustainable in law."

5.The judgment, of Hon'ble Division Bench of this Court above referred, is squarely applicable to the facts of this case and following the same, this writ petition is allowed and the impugned order passed by the first respondent, dated 12.04.2016 is quashed. The respondents are directed to consider the petitioner's application on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

1. The Director,
Adi Dravidar and Tribal Welfare Department,
Chepauk, Chennai-5.
2. The District Adi-Dravidar & Tribal Welfare Officer,
Virudhunagar District,
Virudhunagar.
3. The Special Tahsildar (ADW),
Srivilliputhur,
Virudhunagar District.

+1 cc to Mr.M.Thirunavukkarasu , Advocate in SR.No. 61664

+1 cc to Special Government Pleader in SR.No.61981

Am

AE/SKN RSK/SAR1/30.06.2017/3P/6C

W.P. (MD) No.7768 of 2016

22.06.2017