



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P (MD) No.15289 of 2011

and

M.P (MD) No.1 of 2011

Rajamanickam

... Petitioner

Vs.

1. State of Tamil Nadu,
Represented by Secretary to Government,
Highways and Rural Works Department,
Secretariat, Chennai-600 009.

2. The Divisional Engineer,
Highways and Rural Works Department,
Tiruchirappalli.

3. The Chief Engineer,
Highways and Rural Works Department,
Chennai-600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the third respondent, dated 11.03.2010, quash the same and directing the respondents to give compassionate appointment to the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

This writ petition has been filed, challenging the order passed by the third respondent, dated 11.03.2010 and seeking direction to the respondents to give compassionate appointment to the petitioner.

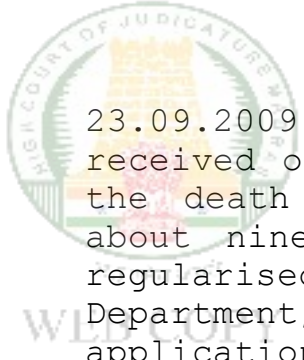
2.The learned counsel appearing for the petitioner submits that the petitioner's father was working in the respondents department of Highways and Rural Works Department, as a

Gangmazdoor, till the date of his death on 17.01.1971.

3.The learned counsel appearing for the petitioner further submits that after the death of petitioner's father, his mother had made an application to the third respondent, requesting to pay Family Pension and to provide a job on compassionate ground to her. Since the petitioner's age was nine, at the time of death of his father, his mother made an application for appointing her on compassionate ground to the third respondent and the same was not considered. After attaining majority, the petitioner made applications to the third respondent praying for appointment on compassionate ground on 14.02.1986, 15.08.1987 and 15.03.1993. The third respondent, on 29.02.1994, had sent a communication in K.No.579/93, calling upon the petitioner to furnish relevant documents. The petitioner also furnished the required documents along with another application on 28.12.1994. The third respondent has sent a communication No.6032/2008, dated 19.12.2008, wherein the petitioner was directed to furnish a composite Certificate from the concerned Tahsildar and the petitioner has also produced the composite certificate from the Tahsildar, Srirangam, Tiruchirappalli, dated 02.01.2009. The Superintending Engineer of the first respondent has sent a communication on 12.11.2009, to the third respondent, marking a copy to the petitioner calling for opinion for appointing the petitioner on compassionate ground, consequent upon the death of the petitioner's father.

4.The learned counsel further submits that the Superintending Engineer of the first respondent has sent a communication to the third respondent on 23.12.2009, marking a copy to the petitioner recommending petitioner's appointment on compassionate ground. Since, there was no response for any of the communications, the petitioner has sent a representation on 12.01.2011, to the Chief Minister's Cell praying their intervention. The third respondent has sent a reply to the Chief Minister's Cell, dated 11.03.2011, wherein they have categorically stated that the request of the petitioner for appointment on compassionate ground was negatived, since the service of his father, namely, Ponnambalam was not regularised. The communication dated 11.03.2011, negating the request of the petitioner's appointment on compassionate ground, consequent upon the death of his father is improper. The contention of the petitioner was that as per the G.O.Ms.No.51, the services of his father ought to have been regularised in the respondent Office and the petitioner could have been appointed on compassionate ground.

5.The Counter Affidavit would show that petitioner's father's service was provincialised with effect from 01.01.1977 and later regularised in the regular establishment on 01.01.1977. But, during his service, he expired on 17.01.1977. The petitioner had submitted his application for the appointment on compassionate ground on



23.09.2009. Necessary certificates and documents have been received only in incomplete shape on 02.12.2009. At the time of the death of the petitioner's father, the petitioner was aged about nine years only. After his father's service has been regularised from 01.01.1977, vide G.O.Ms.No.214 (H & M.P) (HM-2) Department, dated 10.09.2008, the petitioner had submitted an application seeking appointment on compassionate ground. The second respondent has submitted that as per G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995 and letter (Ms.) No.202, dated 08.10.2007, the time limit for submitting application seeking appointment on compassionate ground is within three years.

6.On going through the materials on record, this Court is of the view that the petitioner himself has sent an application on 14.02.1986 and at the time, the petitioner was aged about only 18 years and since he has sent various representations dated 14.02.1986, 15.08.1987, 27.06.1989, 15.03.1993 and 12.01.2011 to the said department, the departmental proceedings also have been communicated by the counter parts and the higher officials by sending various communications.

7.The impugned order would show that on 11.03.2010, the third respondent has sent a letter in reply to the letter from the Chief Minister's Cell stating that the compassionate ground appointment was rejected only on the ground that the service of the petitioner's father was not regularised and hence, the appointment on compassionate ground cannot be considered. But the counter affidavit would show that as per the G.O.Ms.No.214 (H & M.P) (HM-2) Department, dated 10.09.2008 the service of the petitioner's father, was regularised with effect from 01.01.1997. It is seen that there was a mistake on the part of the respondents.

8.The appointment on compassionate ground is a benevolent scheme to protect the deceased breadwinner government employee's family from starving etc., Hence, in order to facilitate the petitioner's case this Court directs the respondents to consider the case of the petitioner and pass appropriate orders, as per prevailing Rules and in accordance with law, if he is otherwise eligible, within a period of eight weeks from the date of receipt of a copy of this order.

9.With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(T&P)



To

1. The Secretary to Government,
The State of Tamil Nadu,
Highways and Rural Works Department,
Secretariat, Chennai-600 009.
2. The Divisional Engineer,
Highways and Rural Works Department,
Tiruchirappalli.
3. The Chief Engineer,
Highways and Rural Works Department,
Chennai-600 009.

+ 1 cc TO Mr.R.Subramanian , Advocate in SR No. 92540
+ 1 cc TO The Special Government Pleader in SR No. 92489

SSS

AE/SV MMS/SAR1/21.03.2018/4P/6C

ORDER MADE IN
W.P(MD)No.15289 of 2011
and
M.P(MD)No.1 of 2011
12.12.2017