



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.4342 of 2011

B.Uthayakumar

...Petitioner

Vs.

1. The Chief Engineer (General),
Highways Department,
Chennai-05.

2. The Divisional Engineer,
Highways Department,
Theni Division, Theni.

3. The Additional Divisional Engineer,
Highways Department,
Bodinayakanur, Theni.

...Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issuance a Writ of Cerciorarified Mandamus, calling for the records relating to the impugned order bearing Ku.No.169/2010/A5 dated 06.05.2010 passed by the second respondent herein and quash the same and consequently direct the respondents to consider the petitioner for appointment on the basis of compassionate ground.

For Appellant : Mr.K.Samidurai

For R1 to R3 : Mr.VR.Shanmuganathan
Spl. Government Pleader

O R D E R

This Writ petition has been filed for issuing a Writ of Cerciorarified Mandamus, calling for the records relating to the impugned order bearing Ku.No.169/2010/A5 dated 06.05.2010 passed by the second respondent herein and quash the same and consequently direct the respondents to consider the petitioner for appointment on the basis of compassionate ground.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The facts of the case are that the petitioner's father was



working as Salai Panialar (Gang Mazdoor) in the Highways Department, and he died on 01.07.2008. At that time, the petitioner was a minor. The petitioner has given a representation before the third respondent for compassionate appointment on 26.11.2009 in the prescribed form along with necessary certificates. The third respondent herein considering the family circumstances of the petitioner, communicated his higher authority, the second respondent herein, through his letter No.27/2010/ENIU dated 18.01.2010. The second respondent herein considering the letter No.27/2010/ENIU dated 18.01.2010, directed the third respondent herein to get additional documents by his communication Ku.No.169/09/A5 dated 23.04.2010. Thereafter, the petitioner produced all the necessary documents before the third respondent. Thereafter, the second respondent passed an impugned order dated 06.05.2010 in Ku.No.169/2010/A5 and the petitioner's representation was returned by the second respondent herein stating that the petitioner is a minor during the relevant period of three years.

3. The learned counsel for the petitioner would submit that the third respondent authority passed an impugned order without looking in to the petitioner's case in the light of the government letter (Govt.Lr.No.66813/Q1/91-3 dated 22.11.1991). The petitioner's father died on 01.07.2008 and the application has been made within three years from the date of the death of the said employee. The reasons stated by the third respondent to deny compassionate appointment to the petitioner is unreasonable and arbitrary. There is no bar in appointing a dependant below the age of 18 years on regular basis if he is otherwise qualified for the post and he satisfies the conditions prescribed for appointment compassionate grounds.

4. The learned Government Pleader would submit that the petitioner was minor, aged about 14 years at the time of filing counter and now the petitioner would have attained majority. However, the Highways Department has clarified vide Govt.letter No.86/Q1/2010 dated 04.05.2010 that the application was received for compassionate appointment. An application for compassionate appointment had to be made with in 3 years from the date of the death of the said employee. More over, the Government had by his proceeding dated 25.02.2011 reiterated that the applicant should be at the age of 18 years or above to seek compassionate appointment and if the application made by a minor, the same shall be returned as not eligible. Thus it is clear from the above that the scheme for compassionate appointment under the High Ways Department specifies that only a person who is at the age of 18 years of age or above can seek for compassionate appointment. So the second respondent had rightly returned the application preferred by the petitioner.



5. In the light of the above facts, this Court directs the petitioner to give fresh representation with all relevant documents within a period of two weeks from the date of receipt of a copy of this order. On such representation, the second respondent shall consider and pass orders on merits and in accordance with law, after providing necessary opportunity to the petitioner, within a period of three months therefrom.

6. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Engineer (General),
Highways Department,
Chennai-05.
2. The Divisional Engineer,
Highways Department,
Theni Division, Theni.
3. The Additional Divisional Engineer,
Highways Department,
Bodinayakanur, Theni.

+ 1 cc TO Mr.K.Samidurai , Advocate in SR No. 91334

psd
AE/GT/SAR3/10.01.2018/3P/5C

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