



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Writ Petition (MD) No.5867 of 2013
and MP(MD) No. 2 of 2013

U.Ramanan

... Petitioner

Vs.

01. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai-5.

02. The Superintendent Engineer,
Highways Department,
No. 101, Alagarkovil Road,
Madurai-2

03. The Assistant Divisional Engineer,
Melur Division, Madurai.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Memorandum No. 900/2013/A2 dated 06.03.2013 passed by the 2nd respondent and quash the same, consequently direct the respondents to give compassionate appointment to the petitioner.

For Petitioner : Mr.R.Sathish

For R1 to R3 : Mr.S.Kumar

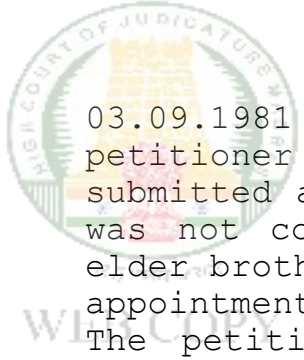
Additional Government Pleader

ORDER

This writ petition has been filed seeking issuance of writ of Certiorarified Mandamus to quash the impugned Memorandum No. 900/2013/A2 dated 06.03.2013 passed by the 2nd respondent and for consequential direction to the respondents to give compassionate appointment to the petitioner.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. Aggrieved by the rejection of compassionate appointment, the petitioner has come forward with this writ petition. It has not been disputed that the petitioner's father, who was working as Road Mazdoor under the third respondent, died on



03.09.1981 in harness. After the demise of the father of the petitioner by name, Urangan, the mother of the petitioner has submitted an application for compassionate appointment and the same was not considered due to lack of qualification. Thereafter, the elder brother of the petitioner had made a request for compassionate appointment which also not considered due to lack of qualification. The petitioner, who had studied upto 10th standard, applied for compassionate appointment on 13.09.2000 after he attained majority. The said request of the petitioner was rejected on the ground that the claim having been made after three years from the date of death of the Government servant cannot be considered.

4. During the year 2005, the Government clarified that the restriction of three years would apply only to dependants of Government servants who died after 26.06.1995. Taking advantage of the said clarification on 11.10.2005, the petitioner made the present application. The revenue authorities also confirmed the fact that the family of the deceased Government servant was in indigent circumstances and the third respondent had also recommended the petitioner's case for compassionate appointment in his proceedings dated 25.02.2009.

5. Since no appointment was given to the petitioner, the petitioner had filed W.P.(MD) No.11566 of 2012 seeking a direction to the first respondent to pass orders on the application of the petitioner based on the recommendation of the second respondent dated 25.02.2009. This Court by an order dated 07.12.2012 directed the authorities to consider the claim of the petitioner on merits and in accordance with law within a period of eight weeks. In pursuance of the said order, the authorities rejected the request of the petitioner for compassionate appointment by the impugned order. Only reason given in the impugned order for rejection of the petitioner's request is that the petition is filed after three years from the date of death of the Government servant.

6. The said premise is apparently wrong in view of the clarification issued by the Government in letter No.39924/Q1/95 dated 11.10.2005. It is an admitted case that the petitioner's father had died 03.09.1981 and hence, G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995 cannot have any application to the petitioner.

7. The learned Government Advocate would point out that the petitioner is aged 47 years and hence, being over aged his request for compassionate appointment cannot be considered.

8. The learned counsel for the petitioner drew the attention of this court to the decision of the Division Bench of this Court in **C.Jayapal Vs. the Director of Medical Education, Chennai and others** reported in **2005(5)CTC page No.655** and held that the upper age limit can be relaxed in the case of Scheduled Caste if it is more beneficial to individual. The Division Bench had referred



to the letter No.46571/N1/82-3 dated 24.11.1982 under which the Government has clarified the question of age relaxation of the case of Scheduled Caste and Scheduled Tribe held that the upper age limit could be relaxed if it is more beneficial to the individual who seeks compassionate appointment.

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9. There is no dispute that the petitioner's family is in indigent circumstances and compassionate appointment would be definitely beneficial to the family.

10. In view of the above, this writ petition is allowed and the impugned order dated 06.03.2013 is quashed. Rule Nissi is made absolute. There will be a direction to the respondents to consider the application of the petitioner in the light of the clarification issued by the Government in letter No.39924/Q1/95 dated 11.10.2005 and letter No.46571/N1/82-3 dated 24.11.1982 and appoint the petitioner on compassionate grounds in a suitable post commensurate with his educational qualification. The said exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. The petitioner may send the copy of this order to the concerned authorities seeking early action. No costs. Consequently, connected M.P.(MD) No.2 of 2013 is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

01.The Chief Engineer (General),
Highways Department,
Chepauk, Chennai-5.

02.The Superintendent Engineer,
Highways Department,
No. 101, Alagarkovil Road,
Madurai-2

03.The Assistant Divisional Engineer,
Melur Division,
Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 17083
+ 1 CC TO Mr.C.GUNASEKARAN, ADVOCATE IN SR No. 17500

CM

TE/SKN-RSK : 28/03/2017 : 3P/6C

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