



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.2551 of 2018

B.Rajesh

... Petitioner

Vs.

1. The Principal Director,
Highways Department,
Chepauk, Chennai - 600 005.

2. The Divisional Engineer,
Highways Construction & Maintenance,
Nagercoil.

3. The Supervising Engineer,
Highways Construction & Maintenance,
Tirunelveli.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, challenging the impugned order dated 31.08.2015 passed by the second respondent as illegal, quash the same and consequently directing the first respondent herein to appoint the petitioner on compassionate ground in the place of his father Late.Bagavathiyappan who died in harness on 15.03.2011 by considering representation dated 29.01.2014 within time frame fixed by this Court.

For Petitioner : Mr.J.Jawahar

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

The petitioner's father was employed as Gang Mazdoor since 1997. When in service he died on 15.03.2011. The petitioner had submitted his representation on 29.01.2014 for grant of compassionate appointment. The same was rejected on 31.08.2015. The order of rejection is assailed in this Writ petition.

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



3. It is the case of the department that on the date the applicant attained majority, three years had already lapsed from the date of demise of the employee. The learned counsel for the petitioner submits that the petitioner was aged 17 years and six months on the date of submission of the representation and he reached the aged of 18 years on 31.07.2014. Thus there was a difference of hardly six months.

4. This Court is of the view that this is really a hard case and the authorities ought to take an indulgent view. This is not as if when an application is submitted for grant of compassionate appointment, immediately the employment is given by the Department. The process takes quite sometime. When the rejection order was passed, the applicant had attained the age of majority.

5. I am of the view that the Department should re-visit the issue in this case. In this view of the matter, the impugned order passed by the second respondent dated 31.08.2015 stands quashed. The matter is remitted to the file of the second respondent and the second respondent shall consider the case of the petitioner favourably and the fact that the petitioner did not reach the age of 18 years as on 15.03.2014 shall not be put against him. Of course in such cases, there is a list of candidates waiting in the queue. Merely because one person approaches the Court, he cannot be permitted to steal a march over others waiting in front of him in the queue. The authority will take into account all these aspects and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The Writ petition stands allowed on these terms. No costs.

Sd/
Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar(CS-III)

To

1. The Principal Director,
Highways Department,
Chepauk, Chennai - 600 005.

2. The Divisional Engineer,
Highways Construction & Maintenance,
Nagercoil.

3. The Supervising Engineer,
<https://hcservices.ecourts.gov.in/hcservices/>
Highways Construction & Maintenance,
Tirunelveli.



+1cc to Mr.J.SENTHIL KUMARAI AH, Advocate, SR.No.54233

+1cc to M/s.Special Government Pleader, SR.No. 54888

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