



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.5656 of 2018

S.Santhanamari

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport
Corporation Limited,
Madurai Division, Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation Limited,
Tirunelveli Division, Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the proceedings of the second respondent in Ka.No.12554/Nir3/TaAaaPoaKa/TiLi/2018 dated 30.01.2018, quash the same and further direct the respondents to provide job to the petitioner on Compassionate Appointment in their Corporation in lieu of the death of the petitioner's father M.Sakthivel worked as Driver in the respondents corporation.

For petitioner : Mr.P.Pethu Rajesh

For respondents : Mr.K.Sathya Singh

ORDER

Mr.K.Sathiya Singh, learned standing counsel takes notice for the respondents. By consent of both parties, the writ petition is taken up for disposal at the admission stage itself.

2.The petitioner's father was appointed as a Driver in the respondent corporation on 31.10.1996. On the ground that he was suffering from colour vision, he was terminated from service. This termination was questioned by the petitioner's father in ID.No.1 of 1999 before the Labour Court, Tirunelveli. The I.D was allowed on 08.03.2010. The management was directed to provide



alternative employment to the petitioner's father with continuing of service along with 30% of backwages.

3.The award passed by the Labour Court was questioned before this Court in WP(MD)No.5519 of 2012 by the respondent corporation. By order dated 21.02.2014, the said writ petition was dismissed. The petitioner's father also passed away on 26.02.2016. The petitioner as the daughter sought appointment in the respondent corporation on compassionate grounds. The said request was declined by order dated 30.01.2018 by the second respondent. The order of rejection is questioned in this writ petition.

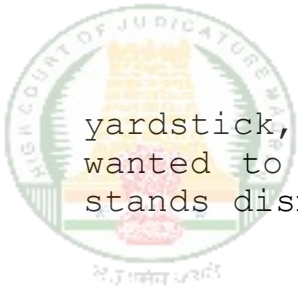
4.The learned counsel appearing for the petitioner would contend that the reason given in the impugned order is patently unsustainable. Even according to the management, the award passed by the Labour Court, Tirunelveli was upheld by this Court. Therefore, the petitioner's father was deemed to have been in service. Therefore, the petitioner would contend that she is eligible to be appointed on compassionate grounds.

5.The learned standing counsel appearing for the respondent strongly opposed the prayer made in this writ petition.

6.This Court is of the view that the very object of providing appointment on compassionate grounds is to relieve the family of the deceased employee that is in distress. Where the employee suddenly passed away, the entire member of the family would be affected. In such cases, in order to alleviate their financial distress appointment is given on compassionate grounds.

7.It is true that the petitioner's father was successful before the Labour Court as well as before this Court. But then the petitioner's father was not in service when he passed away. He was only holding an award passed by the Labour Court in his favour. The Labour Court directed the management to provide the petitioner's father an alternative employment. Such an alternative employment was never provided. It is true that this Court had directed the management of the respondent corporation to implement the award passed by the Labour Court. If the Labour Court award was not implemented, the only remedy open to the petitioner's father was to file an execution petition. The petitioner's father did not appear to have taken any such course of action. It is seen that the petitioner's father was not actually in service of the respondent corporation.

8.Therefore, this Court would not be justified in granting relief in cases such as this. It is also seen that the petitioner is presently aged about 35 years. She has described herself in the affidavit filed in support of this writ petition as the wife of Mr.Ananth. Therefore, the petitioner cannot be said to be a person who is in financial distress. Applying any parameters and



yardstick, the petitioner has not made out a case for the relief wanted to her. There is no merit in this writ petition. It stands dismissed. No costs.

Sd/-
Assistant Registrar (AS)

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/TRUE COPY/

Sub Assistant Registrar

+1. C.C. to M/S.K.SATHIYA SINGH Advocate SR.No.56219.
+1. C.C. to M/S.P.PETHU RAJESH, Advocate SR.No.55857.

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SKM

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