



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**W.P. (MD) No.10941 of 2014**

K.Vendamani

... Petitioner

Vs.

1.The Chief Engineer(Neervalu Aathara Amaippu(Ni.Aa.A) and
Chief Engineer,
Public Works Department,
Chepauk, Chennai - 5.

2.The Superintending Engineer,
Machinery Circle,
Public Works Department(Neervalu Aathara Amaippu(Ni.Aa.A),
Chepauk, Chennai-5.

3.The Executive Engineer,
Machinery Division-II,
Public Works Department(Neervalu Aathara Amaippu(Ni.Aa.A),
CLC Compound,
Mannarpuram, Trichy - 20.

4.The Assistant Executive Engineer,
Machinery Sub-Division-IV,
Public Works Department,
Appanthirupathi,
Madurai District.

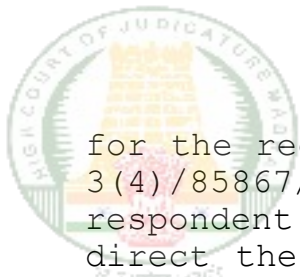
.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Letter No.S 3(4)/85867/2007, dated 24.2.2010 on the file of the first respondent and to quash the same as illegal and consequently direct the respondents to appoint the Petitioner on the basis of compassionate ground.

For Petitioner : Mr.J.Madhu
for M/s.S.Karthick

For Respondents : Mr.M.Pandiarajan
Addl. Govt.Pleader

The petitioner has come forward with this Writ Petition seeking for issuance of a writ of Certiorarified Mandamus calling



for the records pertaining to the impugned order in Letter No.S 3(4)/85867/2007, dated 24.2.2010 on the file of the first respondent and to quash the same as illegal and consequently direct the respondents to appoint the Petitioner on the basis of compassionate ground.

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2.The case of the Petitioner is that she is seeking compassionate appointment on the demise of her father on 15.03.1989.According to her, she is one of the five children born to her parents and that the mother made a representation on 10.7.1989 seeking compassionate appointment. According to the Petitioner, no action has been taken on the said representation. If the case of the Petitioner's mother is not considered, she ought to have approached this Court immediately thereafter and at that point of time, the Petitioner was aged 5 years and her date of birth is 1.6.1984. The Petitioner has made an application on 25.5.2006.

3.It is to be noted in the present case that the second application cannot be treated as the continuation of the first application. In the first application, the Petitioner's mother requested for compassionate appointment and if the same is not considered within a reasonable time, she should have approached the Court immediately thereafter. Having waited for more than two decades, seeking compassionate appointment cannot be granted.

4.At this juncture, it is relevant to point out paragraph No.20 of a decision reported in **(2011) 4 SCC 209, Bhawani Prasad Sonkar vs. Union of India and others**, wherein the Hon'ble Apex Court has held as follows:-

"20.Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i)Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de-hors the scheme.

(ii)An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii)An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the bread-winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the



time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

5. This Court, while dealing with the scope of compassionate appointment in the case of **L. Mohanasundaram .vs. The Joint Director of School Education (Services), College Road, Nungambakkam, Chennai-6 and another made in W.P (MD) No. 16402 of 2012, dated 3.1.2018** has categorically held that compassionate appointment cannot be claimed as a matter of right and in the event of applicability of rules, then the concerned person should apply for the same within the reasonable time.

6. In view of the above, I find no merit in the Writ Petition and accordingly, the same stands dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS-I)

To:

1. The Chief Engineer (Neervalu Aathara Amaippu (Ni.Aa.A) and Chief Engineer, Public Works Department, Chepauk, Chennai - 5.
2. The Superintending Engineer, Machinery Circle, Public Works Department (Neervalu Aathara Amaippu (Ni.Aa.A), Chepauk, Chennai-5.
3. The Executive Engineer, Machinery Division-II, Public Works Department (Neervalu Aathara Amaippu (Ni.Aa.A), CLC Compound, Mannarpuram, Trichy - 20.



4.The Assistant Executive Engineer,
Machinery Sub-Division-IV,
Public Works Department,
Appanthirupathi,
Madurai District.

+1 CC To MR.S.KARTHICK SUBRAMANIAN, Advocate SR. NO. 81838
+1 CC TO The Special Government Pleader SR.NO.81315

W.P.(MD) No.10941 of 2014
30.08.2018

VSN
TR/SKN/SAR-I (23.10.2018) 4P 7C