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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.8393 of 2017
and W.M.P. (MD) No.6393 of 2017

S.Karthikeyan

... Petitioner

Vs.

1.The Commissioner and Secretary to Government,
Transport (C1) Department,
Fort St. George, Chennai - 9.

2.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Rep.by its Managing Director, Kumbakonam.

3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Dindigul Region, Dindigul.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter of the 1st respondent bearing letter No.34718/C1/88-6 dated 03.04.1989 and consequential rejection order of the 3rd respondent in Ref.No.Aachi.A2.1783, dated 22.03.2017 quash the same and consequently, direct the respondents to forthwith provide the petitioner appointment on compassionate grounds in any suitable post in the 2nd respondent Corporation depending upon the petitioner's educational qualification within the time limit that may be stipulated by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.R.Seethuraman, Spl.G.P.for R1
Mr.A.Jeyaram for R2 and R3

ORDER

The petitioner has come forward with the present Writ petition to quash the impugned letter of the first respondent in letter No.34718/C1/88-6 dated 03.04.1989 and consequential rejection order of the third respondent in Ref.No.Aachi.A2.1783, dated 22.03.2017 and consequently, direct the respondents to appoint the petitioner in any suitable post in the second respondent / Corporation on compassionate ground depending upon his educational qualification within a time frame.

2.The case of the petitioner is that while his father viz., K.Sivasankaran, who was working as a Driver in the respondents / Corporation, has met with an accident. Due to which, his leg has been amputated. On medical ground, he has been discharged from duty and thereafter, he was again re-appointed as a Helper in the



respondents / Corporation as a fresh entrant. Unfortunately, on 18.07.2011 the petitioner's father died while he was in service. Immediately, on 19.08.2011 the petitioner's mother has submitted a representation seeking appointment to the petitioner on compassionate ground. However, on 22.03.2017, the request for appointment on compassionate ground to the petitioner has been rejected on the ground that the entire terminal benefits have been settled and the petitioner's father has already been given alternate employment and hence, there is no provision to consider the case of the petitioner for appointment on compassionate ground as his father died during reemployment period.

3. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the first respondent and the learned standing counsel appearing for the respondents 2 and 3.

4. In view of the provisions of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995, which came into effect from 1st January 1996, the petitioner's father has been given alternate employment without break in service and if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. In any event, the petitioner's father is no more and the issue on hand is with regard to compassionate appointment.

5. The petitioner's father died on 18.07.2011 and a representation has been submitted on 19.08.2011 for appointment on compassionate to the petitioner and on 22.03.2017, the third respondent has rejected such request on the ground that alternate employment has not been treated as reemployment and that the dependent's of the deceased employee is not eligible for appointment on compassionate ground. Such contention of the third respondent may not be correct and the same is not the spirit of the compassionate appointment scheme. If the deceased employee's family is in distress, definitely, the dependent of the family would be considered for compassionate appointment if the candidate fulfills other criteria.

6. In such view of the matter, the reasons assigned by the third respondent in the impugned order that if an employee died during reemployment period, the same should not be considered as death while such employee was in service, cannot be accepted. Accordingly, the impugned order is set aside and the case of the petitioner for compassionate appointment has got to be considered by the respondents / Corporation provided he fulfills all the requirements. On such consideration, the petitioner's name will be placed in seniority list maintained for the purpose of providing service to him on compassionate ground and as and when his turn comes, he should be considered for appointment.



The Writ petition is disposed of accordingly. No costs. Consequently, connected W.M.P.is closed.

Sd/-

Assistant Registrar(P&A)

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Sub Assistant Registrar(CS-IV)

To

- 1.The Commissioner and Secretary to Government,
Transport (C1) Department,
Fort St. George, Chennai - 9.
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.
- 3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Dindigul Region,
Dindigul.

+1CC to Mr.A.Rahul, Advocate, SR.No.84159

+1CC to Mr.A.Jeyaram, Advocate, SR.No.83929

+1CC to the Special Government Pleader SR.No.84301

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NBJ

ES/RP/SAR 4/12.11.2018/3P/7C