



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.11812 of 2015

S.Sarala

... Petitioner

vs.

1.The Transport Commissioner
Ezhilagam, Chepauk
Chennai-600 005

2.The Deputy Transport Commissioner
Tiruchirappalli

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus to consider compassionate ground appointment application dated 18.02.2010 within a time stipulated by this Court.

For Petitioner : Mr.K.S.Sankhar Murali

For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to consider the case of the writ petitioner for providing appointment on compassionate grounds.

2. The father of the writ petitioner was employed as Motor Vehicle Inspector Grade-I and died on 05.01.2004, while he was in service. Soon after the death, the eldest daughter of the deceased employee submitted an application to provide appointment on compassionate grounds on 11.11.2005. The respondents called upon the eldest daughter of the deceased employee to submit all the relevant documents, including certificates, enabling the Department to consider her case. However, the eldest daughter of the writ petitioner had not pursued the remedy and abandoned the application. Subsequently, after a lapse of six years, the writ petitioner, who is the younger daughter of the deceased employee, submitted an application on 18.02.2010 and the said application was not considered and kept pending by the respondents. Thus, the writ petitioner is constrained to move the present writ petition.

3. As per the terms and conditions of the scheme of appointment, there is no provision to entertain the second application from the second legal heir of the deceased employee. Once an application for appointment on compassionate grounds was filed by one legal heir, that alone should be processed and in the

present case, the eldest daughter of the deceased employee, who filed an application within a period of three years from the date of the death of her father / employee, had not pursued the remedy and therefore, the second application filed by the another legal heir after a lapse of six years from the date of the death of the employee, cannot be entertained, in view of the terms and condition of the scheme of compassionate appointment.

4. Compassionate appointment is a special scheme and it is a concession. Appointment on compassionate grounds can never be claimed as a matter of right. Scheme of compassionate appointment is to be implemented strictly in accordance with the terms and conditions. Appointment on compassionate grounds being in violative of Articles 14 and 16 of the Constitution of India. The State must implement the special schemes cautiously and in a restricted manner so as to ensure that equal opportunity is provided in the public employment. In the event of large scale special appointments without following the rules in force, the constitutional rights of all other eligible candidates are infringed. Thus, such special schemes should not exceed the limits and the same is to be implemented in accordance with the terms and conditions. The scheme of compassionate appointment is implemented to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the penurious circumstances are the vital factors to be assessed by the competent authority before extending the benefit of the scheme of compassionate appointment.

5. In view of the above, the relief as such sought for in the present writ petition cannot be granted and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

krk

To:

1.The Transport Commissioner,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Deputy Transport Commissioner, Tiruchirappalli.

+1CC TO MR.SHANGAR MURALI, Advocate Sr. No.75131

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.75199

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