**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on	28.02.2020
Pronounced on	29.06.2020

WEB COPY

CORAM:**THE HONOURABLE MR. JUSTICE M.S.RAMESH****W.P. (MD) No.5595 of 2016**

J.Deepa

...Petitioner

Vs.

1.The Chief Executive Officer,
Tamil Nadu Khadi & Village Industry Board,
Kuralagam,
Chennai.

2.The Assistant Director,
Tamil Nadu Khadi & Village Industry,
Virudhunagar.

3.The District Collector,
Virudhunagar District,
Virudhunagar.

...Respondents

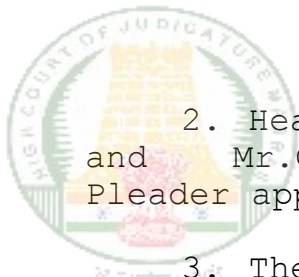
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent passed in N.M.A.6/12221/2012 dated 12.09.2015 and to quash the same and direct the respondents to give compassionate appointment to the petitioner.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.C.M.Marichelliah Prabhu, AGP

O R D E R

The petitioner's mother A.Vijayal, who was working as a Grade-I Assistant in the respondent Board, died in harness, on 28.03.1987, leaving behind the petitioner herein as her only legal heir. The petitioner's request for compassionate appointment On 31.07.2015 came to be rejected by the respondents on 12.09.2015 on the ground that the application has not been made within a period of three years from the date of death of the deceased employee. The rejection order is put under challenge in the present Writ Petition.



2. Heard Mr.K.Sudalaiyandi, learned counsel for the petitioner and Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader appearing on behalf of the respondents.

3. The Hon'ble Division Bench of this Court had earlier in an order passed in W.A.(MD)No.1400 of 2011 dated 16.12.2015 in the case of **S.Velraj Vs. The Superintendent Engineer, TNEB, Tirunelveli and another**, had held that, the three years limitations prescribed for making an application for compassionate appointment cannot be applied in a strait jacket formula and each and every case has to be approached differently, based on the facts. The Scheme for appointment on compassionate ground to the children of the deceased employee is a welfare scheme, to tide over the financial constraints of the bereaved family due to the sudden demise of the breadwinner of the family.

4. In the present case, the petitioner's mother died on 28.03.1987, while she was working as a Grade-I Assistant in the respondent Board, leaving behind the petitioner as her legal heir. The petitioner claims to have made an application seeking for compassionate appointment on 31.07.2015. Though the application was made beyond the period of three years from the date of death of the employee, the Hon'ble Division Bench in *Velraj's case (supra)* had held that three years period stipulated cannot be taken as a hard and fast rule and that, each case requires to be considered on the facts and circumstances. By applying the ratio laid down by the Hon'ble Division Bench in the aforesaid decision, this Court is of the view that, petitioner's case requires to be considered positively.

5. It would be pertinent to point out herein that in all cases where claim is made for compassionate appointment, the concerned authorities are required to act efficaciously and speedily, since the very purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread-earner in the family and that there should not be any delay in such appointments. This proposition was held by the Hon'ble Apex Court in the case of **Sushma Gosain vs. Union of India** reported in **1989 (4) SCC 468** had held as follows:

'It must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.'



6. The same ratio was reiterated by the Hon'ble Apex Court in the case of **Canara Bank vs. M.Mahesh Kumar** reported in **2015 (7) SCC 412**.

7. In the light of the aforesaid decisions, the impugned order of the third respondent dated 12.09.2015 is set aside and the matter is remanded back to the first respondent herein for reconsideration. The first respondent herein shall take into consideration all the observations made in this order and thereby, pass an appropriate speaking order on the petitioner's representation dated 31.07.2015, atleast within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Chief Executive Officer,
Tamil Nadu Khadi & Village Industry Board,
Kuralagam,
Chennai.
- 2.The Assistant Director,
Tamil Nadu Khadi & Village Industry,
Virudhunagar.
- 3.The District Collector,
Virudhunagar District,
Virudhunagar.

Order made in
W.P. (MD) No.5595 of 2016
29.06.2020

sm/DP

SDS (16.07.2020) 3P-4C