

**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.6584 of 2016
and
W.M.P.(MD) No.5683 of 2016

A.Senthilkumar ...Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Tahsildar,
Taluk Office,
Vadipatti,
Madurai District.

...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 pertaining to the impugned order issued by the first respondent in his proceedings in Na Ka No.6860/2016 G1 dated 26.02.2016 and to quash the same and consequently direct the respondents to appoint the petitioner in any suitable post on the basis of his representation dated 10.10.2015 under the compassionate grounds within the time stipulated by this Court.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.M.Mari Chelliah Prabhu, AGP

O R D E R

The grievance of the petitioner is that his claim for appointment on compassionate ground has not been considered by the respondents. It is not in dispute that the petitioner herein is the legal heir of the deceased employee and as such, is entitled to seek for compassionate appointment, after the death of the said employee.

2. Heard Mr.B.Jameel Arasu, learned counsel for the petitioner and Mr.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing on behalf of the respondents.

3. The petitioner's father, Late Arichamy, died in harness, on 22.09.2008, while working as Village Assistant under the respondents herein. At the time of his death, he was survived by his wife and five children. The petitioner is the youngest of the children, who was aged about 14 years at the time of his death. The petitioner was born on 14.05.1994 and he became a major on 14.05.2012.



Immediately, the petitioner's mother made an application on 09.07.2012 seeking for compassionate appointment in favour of the petitioner herein. Pursuant to her request, the first respondent herein in his memo in Na.Ka.No.478/45/2012/G-1, dated 07.08.2012 had called upon the second respondent herein to conduct an enquiry and submit a report in connection with the petitioner's application dated 09.07.2012. Since no further action was initiated thereafter, the petitioner had filed a Writ Petition in W.P.(MD)No.18818 of 2015 and this Court, by an order dated 14.10.2015, had directed the second respondent herein to carry out the instructions issued by the first respondent/District Collector, Madurai District and to submit the proposals within a stipulated time. It is in this background, the impugned order has been passed stating that the application made on behalf of the petitioner on 04.05.2013 is belated and accordingly, the claim was rejected.

4. It is not in dispute that the petitioner's mother had earlier made an application on 09.07.2012 on behalf of the petitioner for compassionate appointment, which representation has been acknowledged by the first respondent in his proceedings Na.Ka.No.4745/2011 dated 07.08.2012 and the copy of such memo is produced before this Court. As stated earlier, the petitioner was born on 14.05.1994 and became a major on 14.05.2012, the application for compassionate appointment was made on 09.07.2012 which is within a period of two months from the date, he attained his majority.

5. The reason assigned by the respondent is that the application of the petitioner is belated, cannot be sustained in view of the various judicial pronouncements of this Court, to the effect that an application made by the legal heir of the deceased employee, within three years from the date of his majority, is deemed to be made well within time. One such order passed by this Court in **W.P.No.26343 of 2012** dated **23.11.2016** in the case of **M.Sathish Kumar vs. the Director of School Education and others**, had placed reliance on two orders of the Hon'ble Division Benches of this Court and ultimately held that, when an application is made within three years from the date of attaining majority, the claimant would be entitled for appointment on compassionate grounds. The relevant portion of the order reads as follows:

'4. In this context, a Division Bench of this Court in a judgment reported in The Chief Engineer/Personnel, T.N.E.B., & another Vs. S.Suder reported in MANU/TN/0635/2009 was held as follows:

"4.In the judgment reported in 2001 Writ L.R.601 in the case of "Ramadoss.D. Vs. The Chief Engineer, T.N.E.B.", this Court (D.Murugesan,J) directed the consideration of the application made within a period of three years after attaining



WEB COPY

the majority by placing reliance on the very same Circular in B.P.No.46, dated 13.10.1995.

5.Subsequently, in the judgment reported in 2002(4) L.L.N.1132, (D.Murugesan,J.), in the case of "P.Ravi V.Chief Engineer (P), T.N.E.B.", also, the very same Circular was relied upon and the application for appointment on compassionate grounds was directed to be considered.

6.Justice P.D.Dinakaran, has also taken the very same view by following the very same Circular dated 13.10.1995, in W.P.No.19673 of 2003, in the order dated 23.09.2003, in the case of "J.Jayakaran Vs. The Superintending Engineer, Theni Electricity Distribution Circle, Theni" and the application for appointment on compassionate grounds was directed to be considered.

7.Justice K.Govindarajan has also taken the same view in Writ Petition No.13099 of 2003, order dated 30.10.2003, in the case of "G.Muthamilselvan V. The Chief Engineer (Personnel) and Anr."

8.Justice F.M.Ibrahim Kalifulla has also taken the same view in the decision reported in 2004(3) CTC 120, (2004) MLJ 238 in the case of "Meer Ismail Ali.T. V. The Tamil Nadu Electricity Board". We are told that the order in the said case of "Meer Ismail Ali" was confirmed in the Writ Appeal by the Division Bench in W.A.No.4008 of 2004, by judgment dated 1.12.2004 and as against the said judgment dated 1.12.2004, the Special Leave Petition in Civil Appeal No.6387 of 2005, was also dismissed by the Supreme Court, by judgment dated 4.4.2005."

5. In a very similar issue, a Division Bench of this Court in W.P.No.3050 of 2003 observed as follows:

"9.Similar question came up for consideration before a Division Bench of this Court in Writ Appeal No.3050 of 2003 in the case of "Indiraniammal V.



7. In the light of the above observations, when it is seen that the application of the petitioner was made within a period of three years from the date he became major, the reasonings of the respondents in the impugned order cannot be sustained. Consequently, the petitioner is entitled to appointment on compassionate ground.

8. In the light of the above observations and findings, the impugned order passed by the first respondent dated 26.02.2016 is set aside. Consequently, there shall be a direction to the concerned respondent to issue an appointment order to the petitioner herein, on compassionate grounds, to such post that may be proportionate to the petitioner's qualification. The concerned respondent shall ensure that the appointment order is issued atleast within a period of eight weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sm/DP

To

1.The District Collector,
Madurai District.

2.The Tahsildar,
Taluk Office,Vadipatti,
Madurai District.

+1 CC to M/s.SPL.GP (SR-9637[F] dated 02/03/2020)

Order made in

W.P. (MD) No.6584 of 2016

and

W.M.P. (MD) No.5683 of 2016

29.06.2020

SMA/17/07/2020/6P/4C