



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.02.2020

PRONOUNCED ON : 28.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P.(MD)No.25855 of 2019

and

W.M.P. (MD)Nos.22359 & 22360 of 2019

R.Manimozhi

...Petitioner

/vs./

1.The State of Tamilnadu,
represented by its Secretary to Government,
Tamilnadu State Transport Corporation Ltd.,
Thiruvalluvar House, Pallavan Salai, Chennai 600 002.

2.The General Manager,
Tamilnadu State Transport Corporation Ltd.,
Kumbakonam Division, Kumbakonam.

3.The Assistant Manager (Personnel),
Tamilnadu State Transport Corporation Ltd.,

Kumbakonam Division, Kumbakonam.

4.The Manager,
Tamilnadu State Transport Corporation Ltd.,
Kumbakonam Division,
Thanjavur Branch, Thanjavur.

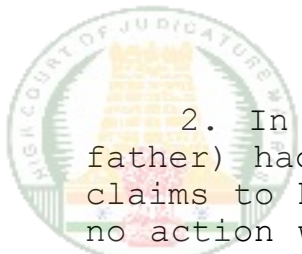
...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 2nd respondent in Lr.No.14/Papi-E4/Tha.A.Po.Ka(Ku) Kumba/2019 dated 08-01-2019, quash the same as illegal and consequently directing the respondents to cancel the petitioner's mother application and take petitioner's application for consideration of the appointment of compassionate ground as any one post related with the petitioner's educational qualification in the same department.

For Petitioner	:	Mr.S.Bharathi Kannan
For R1	:	Mr.C.M.Marichellaiah Prabhu
		Additional Government Pleader
For R2 to R4	:	Mr.P.Balasubramanian
		Standing Counsel

ORDER

The grievance of the petitioner is that her 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 death of the said employee.



2. In the case in hand, the Government employee (petitioner's father) had died on 15.02.2013. The widow of the deceased employee claims to have made an application in September, 2013. Thereafter, no action was taken against her application and therefore, she gave another application on 20.12.2018 requesting the respondents to grant appointment on compassionate ground in favour of her daughter, who is the petitioner herein. On the same day (20.12.2018), the petitioner also had sent a representation seeking for compassionate appointment, in which she had made a reference to the application given by her mother in the month of September, 2013. However, without reference to the petitioner's mother's application which was made within 3 years from the date of the death of the employee, the 2nd respondent had rejected the petitioner's application on the ground that there is no record of the petitioner's application within 3 years from the date of the death of the employee.

3. From the facts of the case, it is claimed that the petitioner's mother had made an application in the month of September, 2013. In the next application made on 20.12.2018, the petitioner and her mother had made a reference to the earlier application given in the month of September, 2013. When the petitioner, as well as her mother in their representations both dated 20.12.2018 had referred to the earlier application made by the petitioner's mother in the month of September, 2013, the respondents had replied only to the petitioner's application dated 20.12.2018 and though the petitioner had made a reference to the application made by her mother in the month of September, 2013, no consideration was made on the same, either denying such representation or acknowledging the same.

4. When the respondents have not specifically denied the petitioner's mother's application which was made in the month of September, 2013 and when no counter has been filed before this Court, denying the statement in the petitioner's affidavit that her mother had earlier filed an application in the month of September, 2013, it can only be presumed that such an application for compassionate appointment was indeed made by the petitioner's mother in the month of September, 2013, which is within a period of three years from the date of death of the Government employee.

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.

6. 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.'

7. 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**.

8. In the light of the above observations and findings, the impugned order passed by the 2nd respondent in Lr.No.14/Papi-E4/Tha.A.Po.Ka(Ku) Kumba/2019 dated 08.01.2019 is set aside. Consequently, the petitioner is granted liberty to make a fresh representation to the second respondent seeking for compassionate appointment and on receipt of the same, the second respondent herein shall consider the same on its own merits, without reference to the three years limitation period for filing an application on compassionate grounds and pass appropriate orders, atleast within a period of 4 weeks from the date of receipt of the said application. The Writ Petition stands ordered accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sm/DP

To

1. The Secretary to Government,
Tamilnadu State Transport Corporation Ltd.,
Thiruvalluvar House, Pallavan Salai, Chennai 600 002.

2. The General Manager, Tamil Nadu State Transport Corporation Ltd., Kumbakonam Division, Kumbakonam.

+1 CC to M/s.SPL.GP (SR-9623[F] dated 02/03/2020)

+1 CC to M/s.P.BALA SUBRAMANIAN, Advocate (SR-9857[F]

Order made in

W.P. (MD)No.25855 of 2019

Dated:28.02.2020

SMA/06/08/2020/3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>