

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4333 of 2021

and

WMP.No.4919 of 2021

1.K.Jayasree

2.K.Parthasaradhi

... Petitioners

Vs.

Metropolitan Transport Corporation

(Chennai) Ltd.,

rep. by its Managing Director,

Pallavam Illam, Anna Salai,

Chennai 600 002.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus after calling for the records pertaining to the order dated 29.08.2019 passed by the Respondent in Memo No.572/PaPi (Pori)/1/Ma.Po.Ka./2019, quash the same and consequently direct the Respondent to provide the Petitioner forthwith compassionate appointment for her son Parthasaradhi/the 2nd Petitioner herein.

For Petitioners : Mr.V.Ajay Khose

For Respondent : Mr.K.Moorthy

O R D E R

Petitioners have come up with this Writ Petition seeking to quash the impugned order dated 29.08.2019 passed by the Respondent in Memo No.572/PaPi (Pori)/1/Ma.Po.Ka./2019, and for a consequential direction to the Respondent to provide compassionate appointment to the 2nd Petitioner herein.

2. According to the 1st Petitioner herein, her husband Late G.Kannan, who was working as a Driver in the Respondent Corporation died on 17.02.2014, while he was in service. It is seen that, the Respondent Corporation, by an order dated 27.03.2014, removed the 1st Petitioner's husband's name from the Roll of their Corporation, due to which, the Petitioners are unable to get terminal benefits of the deceased. It is further stated by the 1st Petitioner that, only by an order dated

17.11.2016, the Respondent Corporation sanctioned a sum of Rs.1,50,000/- towards the amount payable under the Family Benefit Fund Scheme and only from 09.11.2017, Petitioners were paid family pension.

3. It is seen that, the 1st Petitioner made representation to the Respondent seeking to provide compassionate appointment to her son, the 2nd Petitioner herein, on 08.03.2017, followed by a reminder dated 27.01.2020. However, the Respondent, vide order dated 28.08.2019 rejected the Petitioners' request for compassionate appointment.

4. It is seen that, the 1st Petitioner's husband died on 17.02.2014. Though the 1st Petitioner claims to have made oral representations to the Respondent, she has made a written representation to the Respondent only on 08.03.2017, which is not within the stipulated period of three years. While considering the claim for employment on compassionate ground, the Apex Court, in the case of Bhawani Prasad Sonkar vs. Union of India and others reported in (2011 (4) SCC 209), has discussed about the factors that have to be borne in mind. Relevant portion of the said judgment is extracted hereunder:

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de-hors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the bread-winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

5. Nothing prevented the 1st Petitioner from making an Application seeking compassionate appointment within three years from the date of her husband's death. Even though the delay in making the representation appears to be short of less than a month's time, admittedly, no Application has been made within the stipulated period of three years.

6. Compassionate appointment shall not be considered as a backdoor entry and it is based on rules, regulations, guidelines and Government Orders. However, it should be remembered that compassionate appointment is not an usual recruitment process and the candidates seeking such appointment will have to satisfy all the requirements contemplated under the Rules with regard to age, qualification, etc, but however, it is subject to relaxation depending upon the circumstances of each case.

7. As the Petitioners herein have not made an Application within the stipulated period, they are not eligible to the relief sought for in this Writ Petition. Hence, this Writ Petition stands dismissed as devoid of merits. No costs. Consequently, connected W.M.P.No.4919 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

(aeb)

To:
The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavam Illam, Anna Salai, Chennai 600 002.

+1 cc to Mr. K.Moorthy, Advocate Sr.No. 12853

W.P.No.4333 of 2021

PMK (CO)
RMP (24/03/2021)