



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.11859 of 2021

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... Petitioner

-vs-

1.The Deputy Secretary to Government,
Transport (C1) Department,
Secretariat, Chennai - 9.

2.The Managing Director,
Tamil Nadu Transport Corporation
(Tirunelveli) Ltd.,
Tirunelveli District.

3.The General Manager,
Tamil Nadu Transport Corporation
(Tirunelveli) Ltd.,
Nagercoil Division,
Ranithottam,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order issued by the third respondent vide கடித எண் 537/ஏ 10/தன் போக(திலி)/நாகா/2019 10.03.2021 and quash the same as illegal and consequently direct the 2nd respondent to consider the petitioner's mother's representation dated 11.07.2017 regarding compassionate appointment to the petitioner in the light of the judgment passed by the Hon'ble High Court, Madurai Bench in W.A.(MD)No.737 of 2013 and also in W.P.No.25784 of 2010 and give appointment to the petitioner on compassionate grounds in any suitable post compensate with the petitioner's qualification consequent on the death of her father V.Elango, Assistant Tradesman (2445) on 20.01.2000 while in service in the respondent corporation.

For Petitioner : Mr.S.Arivalagan

For Respondents : Mr.A.K.Manickam,
Standing Counsel for state for R1

Mr.R.Rajamohan,
Standing Counsel for R2 & R3.



O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 10.03.2021, passed by the third respondent and to direct the second respondent to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that her father was initially appointed as Help (Tinker) in the respondent Corporation and subsequently, promoted as Assistant Trades Man and worked in the third respondent corporation and he died on 20.01.2000, while he was in service. On 10.01.2002, the petitioner's mother made an application to the third respondent, at that time, the petitioner was minor. Thereafter, on 11.07.2017, the petitioner's mother submitted an application to the third respondent seeking compassionate appointment to the petitioner. Since no response is forthcoming, the petitioner has made an application dated 20.06.2019, seeking compassionate appointment. However, the request of the petitioner was rejected on the ground that the application was not made within the prescribed period of three years. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that at the time of death of the petitioner's father, the petitioner was minor and therefore, he could not submit application, however, his mother submitted an application on 10.01.2002, within the three years period. He further submitted that after attaining the majority, the petitioner submitted application on 20.06.2019 along with requisite certificates. The learned counsel further submitted that since the petitioner has lost her father and she is suffering a lot without any job and income, her case may be considered for compassionate appointment.

4. The learned Government Counsel appearing for the respondents submitted that as per the Government Order in G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the time limit to prefer application for compassionate appointment is three years from the date of death of the employee. But, the petitioner herein submitted application after a lapse of nearly nine years and hence, the third respondent has rightly rejected the petitioner's application for compassionate appointment.

5. I have anxiously considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. Identical issue came up before the Honourable Division Bench of this Court in W.A.No.1749 of 2019 (***Sudhanthira Devi vs. The State of Tamil Nadu and others***) by Judgment dated 03.09.2019,



following the decisions of the Honourable Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

7. In *Government of India and another v. P.Venkatesh* [(2019) 15 SCC 613], the Honourable Supreme Court has held as follows:

"8. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.

9.

10. Bearing in mind the above principles, this Court held: (*Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

8. The Honourable Full Bench in Paragraph No.13 of the Judgment dated 11.03.2020 in W.P.(MD) No.7016 of 2011 has held as follows:

"13. In the light of the above we find that the judgment in the case of *A.Kamatchi v. The Chairman, Tamil Nadu Electricity Board*, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of *E.Ramasamy v. The Chairman, Tamil Nadu Electricity Board*, (2006)



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4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."

9. Furthermore, G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, has clearly prescribed the time limit to prefer application for compassionate appointment as three years from the date of death of the Government servants.

10. In the case on hand, admittedly, the petitioner's father died on 20.01.2000 and the petitioner submitted application for compassionate appointment on 20.06.2019, nearly after nine years. Therefore, in view of the above settled legal position, the claim of the petitioner made beyond the prescribed period of three years cannot be entertained and it deserves to be rejected. Accordingly, the impugned order does not warrant any interference of this Court.

11. In fine, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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Transport (C1) Department,
Secretariat, Chennai - 9.



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(Tirunelveli) Ltd.,
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Nagercoil Division,
Ranithottam,
Nagercoil, Kanyakumari District.

+1 CC to M/s.GP (SR-28709[F] dated 09/09/2021)

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-28627[F] dated 08/09/2021)

W.P. (MD) No.11859 of 2021
08.09.2021

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