



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.20443 of 2016

and

W.M.P. (MD) .No.14658 of 2016

WEB COPY

M.Ramachandran

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by its Secretary,
Road Transport Department, Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
Periyamilaguparai, Trichy-1.

... Respondents

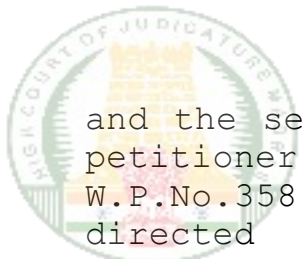
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent proceedings TNSTC/KUM/TRY/SM1/358/2016, dated 08.04.2016 and quash the same as illegal and direct the respondents to give employment to the petitioner on compassionate ground for the death of his father.

For Petitioner	:	Mr.S.Muthukrishnan
For Respondents	:	Mr.A.Karthik
		Government Advocate

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent, dated 08.04.2016 and to quash the same and consequently, direct the respondents to give employment to the petitioner on compassionate ground for the death of his father.

2. The case of the petitioner is that his father was working as Driver in the second respondent Corporation and died in harness on 31.10.1984, leaving behind the petitioner, wife and his elder son as legal heirs. At the time of death of the petitioner's father, he was only three years old child. Hence, immediately after attaining majority, the petitioner has submitted an application to the second respondent on 10.07.2005, seeking compassionate appointment, along with his educational qualification. But the same was not considered. Therefore, the petitioner has submitted repeated representations dated 01.09.2008, 11.10.2011 and 07.12.2015 to the second respondent



and the second respondent has not considered the same. Hence, the petitioner has filed a writ petition before this Court in W.P.No.358 of 2016 and this Court, by order dated 08.01.2016, directed the second respondent to consider the petitioner's representation, dated 07.02.2015 and pass orders on merits and in accordance with law. In compliance with the said order, dated 18.04.2016, the second respondent has passed the impugned order, rejecting the petitioner's request, on the ground that the petitioner has made the application after 30 years of age. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has made several representations from 2005 onwards, the second respondent has rejected the same on the ground that the petitioner has not made the application within the prescribed period. He would further submit that the reason assigned in the impugned order is not sustainable one. Hence, he prayed for allowing this writ petition.

4. Per contra, the learned Government Advocate appearing for the respondents would submit that the petitioner's father died in the year 1984 and the petitioner has made a representation to the Chief Minister's Cell in the year 2011. The said representation was rejected by the Transport Corporation in the year 2011 itself and suppressing the earlier rejection, the petitioner has made the application to the second respondent, on 07.12.2015 and the said application is filed beyond the period of three years. In this regard, the learned Government Advocate has relied on a decision of this Court in the case of **S.Saravanakumar vs. P.Marimuthu** reported in **2016(5)CTC 125** and it is relevant to extract the following paragraphs.

"38.Needless to state that for entry into any service in the State, the minimum age is 18 years, and no minor can be appointed to any service. Therefore, he cannot make any application for appointment to any post in service and no post can be kept vacant for him, till he attains majority. Post which fall vacant have to be filled up as per the recruitment rules. Employment assistance on compassionate appointment, is only a concession, extended to an eligible member of the family, to apply for a suitable post, in the service, in which, the employee/Government servant died in harness and it is not a right, which can be exercised by a minor on attainment of majority.

39.Thus, for a reasons stated supra, we are of the view that continuation of penury or indigent circumstances of the family, alone is not the factor to be considered by the department, while examining the request of an applicant for appointment on compassionate grounds.



Reading of the Government orders shows that scheme can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide employment assistance as and when the son or daughter of the deceased employee attains majority. Under the scheme, the department is not obligated to keep any post vacant, till the applicant attains majority or to consider his candidature on attaining majority. Scheme only enables those who are eligible and satisfy all the eligibility criteria including age, within three years from the date of death."

5. Heard the learned counsel for the petitioner, learned Government Advocate for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner's father died in the year 1984 and initially, the petitioner has made an application to the second respondent on 10.07.2005 and the said application was not considered. Again, the petitioner has made repeated representations dated 01.09.2008, 14.10.2011 and 07.12.2015 to the second respondent. However, the same were not considered. It is also an admitted fact that the petitioner has filed a writ petition in W.P.No.358 of 2016 before this Court and this Court has also issued a direction to the second respondent to consider the petitioner's representation and pass orders within a period of eight weeks. However, a perusal of the entire records reveals that the petitioner has made an application to the Chief Minister's Cell in the year 2011 and the said application was rejected by the respondent Corporation in the year 2011 itself. But, the said rejection order was not challenged before this Court and without discussing the earlier rejection order, the petitioner has filed the present writ petition, challenging the impugned order passed by the second respondent, dated 18.04.2016. Hence, the relief sought for in this writ petition cannot be considered. Accordingly, this Writ Petition is dismissed. However, in the circumstances of the case, there will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)



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Government of Tamil Nadu,
Road Transport Department,
Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
Periyamilaguparai,
Trichy-1.

+1 CC to SGP (SR-3546[F] dated 05/02/2021)

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KM (11.03.2021) 4P 4C