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W.P.No.24304 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24304 of 2019

Tmt.A.Santhi

... Petitioner

-Vs-

1. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Vazhuthareddy Post,
Salamedu, Villupuram-605602.

2. The General Manaer,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Vellore Region, Vellore. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in L.R.No.19934/N2/TNSTC (VPM), Vellore/2017 dated 03.04.2018 and to quash the same and consequently direct the respondents to pass orders granting appointment to the petitioner's son on compassionate grounds to any suitable post based on his qualification.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.R.Venkatesa Perumal



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ORDER

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2. The petitioner states that her husband Late Mr.T.K.Arumugham was working as a Superintendent in the second respondent Corporation. He died on 12.01.2017 while in service. Thus, the petitioner submitted an application to provide an appointment to her son on compassionate grounds. The application was submitted on 15.11.2017.

3. The application submitted by the writ petitioner was considered by the second respondent Corporation and they had rejected the claim on the ground that the daughter of the deceased employee was working as a Government Servant in Taluk Office at Tiruvallur. When any one of the members of the family of the deceased employee is working in a Government Department or in the private sector, then the legal heirs are not eligible to avail the benefit of the scheme of compassionate appointment.



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4. Even to ascertain the indigent circumstances, the pensionary benefits are also to be taken into consideration. The Supreme Court of India in the case of ***Union of India and others Vs. Amrita Sinha*** in ***C.A.No.7640 –7641 of 2021*** dated 11.12.2021 (2021 15 Scale 174) held in Paragraph No.10 as follows :

“The monthly pension which was payable to the respondent was required to be taken into account in the award of merit points. The Tribunal, however, came to the conclusion that pension is paid for past service rendered by the employee and, hence, denial of compassionate appointment on that basis was not justifiable. This reasoning of the Tribunal is fallacious. Undoubtedly, pension is not an act of bounty, but is towards the service which has been rendered by an employee. However, in evaluating a claim for compassionate appointment, it is open to the authorities to evaluate the financial position of the family upon the death while in service. Compassionate appointment is not a vested right. It is provided in order to enable a family to tide over a financial crisis caused by the death of its wage-earner while in service.



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If the scheme requires that the family pension must be taken into account in evaluating the merits an application, it has to be followed.”

5. In this regard, the Hon'ble Supreme Court of India, ***recently on 05.09.2022***, in the case of ***Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union*** reported in ***[2022 LiveLaw (SC) 739]***, wherein in paragraph-8 of its judgment, reiterated the principles to be adopted for providing appointment on compassionate grounds as under:-

“8. Even otherwise, such an appointment to the heirs of the employees on their retirement and/or superannuation shall be contrary to the object and purpose of appointment on compassionate grounds and is hit by Article 14 of the Constitution of India. As observed and held by this Court in a catena of decisions, compassionate appointment shall always be treated as an exception to the normal method of recruitment. The appointment on compassionate grounds is provided upon the death of an employee in harness without any



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kind of security whatsoever. The appointment on compassionate grounds is not automatic and shall be subject to the strict scrutiny of various parameters including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of the other members of the family. No one can claim to have a vested right for appointment on compassionate grounds. Therefore, appointment on compassionate grounds cannot be extended to the heirs of the employees on their superannuation and/or retirement. If such an appointment is permitted, in that case, outsiders shall never get an appointment and only the heirs of the employees on their superannuation and/or retirement shall get an appointment and those who are the outsiders shall never get an opportunity to get an appointment though they may be more meritorious and/or well educated and/or more qualified.”

6. Even in yet another recent judgment of the Hon'ble Supreme

Court in the case of **CENTRAL BANK OF INDIA vs. NITIN** reported



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in [2022 LiveLaw (SC) 690] , wherein in paragraphs 20 and 21, it has

been held as under:-

“20. It is well settled that compassionate appointment is an exception to the rule of equality, which enables the dependent family members of a medically incapacitated employee who has no option, but to retire, or a deceased employee, to tide over the immediate crisis caused by the incapacitation or death of the breadwinner. Compassionate Appointment excludes equally or more meritorious candidates, much in need of a job, from the zone of consideration. Consideration for compassionate appointment must, therefore, be strictly in accordance with the prevalent rules for compassionate appointment applicable to the deceased/prematurely retired employee.

21. In this case, there is a financial criteria of eligibility for compassionate appointment under the Compassionate Appointment Scheme. Rules which provide for a financial criteria for appointment on Compassionate ground are valid and lawful



rules which have to be construed strictly, as otherwise the quota reserved for compassionate appointment would be filled up excluding others who might be in greater and/or far more acute financial distress.”

7. In view of the fact that the daughter of the writ petitioner is employed in the Government Department, her son is not eligible to get an appointment on compassionate grounds. Thus, the writ petition is devoid of merits and stands **dismissed**. However, there shall be no order as to costs.

02.12.2022

Index : Yes
Speaking order
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To

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2. The General Manaer,
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S.M.SUBRAMANIAM.J.,

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