



WEB COPY

W.P.(MD) No.8305 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.8305 of 2021

B.Manimaran

... Petitioner

vs.

1.The Managing Director
Tamilnadu State Transport
Corporation (Kumbakonam) Limited
New Railway Feeder Road
Kumbakonam

2.The General Manager
Tamilnadu State Transport
Corporation (Kumbakonam) Limited
Maruthupathi, Karaikudi
Sivagangai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 2nd respondent to consider the representation of the petitioner dated 17.06.2016 and keep one post vacant on compassionate ground to the petitioner.

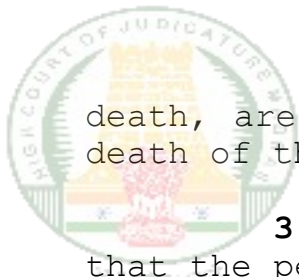
For Petitioner : Mr.Muthu.K.S.

For Respondents : Mr.P.Balasubramanian
Standing Counsel

O R D E R

The father of the petitioner was working as driver in the respondent - Transport Corporation. He died on 04.06.2012. The fact remains that even before the death of the employee, he was dismissed from service on 12.01.2012. He filed a writ petition before this Court in W.P.(MD) No.3135 of 2012 challenging the order of dismissal from service. The said writ petition was allowed on 02.12.2013 and the order of dismissal from service was set aside and the terminal benefits were also directed to be settled to the legal heirs of the deceased employee and the same is also stated to have been settled.

2. Now, the question is whether the legal heirs of the deceased employee, who was dismissed from service at the time of his



death, are entitled for compassionate appointment subsequent to the death of the employee.

3. The learned counsel for the petitioner made a submission that the petitioner's father was dismissed from service and the said order of dismissal from service was set aside and therefore, the petitioner is entitled for compassionate appointment.

4. The learned Standing Counsel appearing for the respondent - Transport Corporation objected the said contention by stating that the order of dismissal from service was set aside by this Court only after the death of the employee and therefore, the legal heirs are entitled only for terminal benefits and the same has also been settled. As far as compassionate appointment is concerned, the employee died in the year 2012 and the application was submitted on 17.06.2016, after a period of 2 ½ of years from the date of passing of orders in the writ petition.

5. In view of the fact that the application for compassionate appointment cannot be considered in respect of such cases, where the employee was dismissed from service and after his death, the dismissal from service was set aside and therefore, on the date of death of the employee, he was not the employee of the respondent - Transport Corporation.

6. This Court is of the considered opinion that admittedly the father of the petitioner died on 04.06.2012 and on the said date, he was not the employee of the Transport Corporation. Therefore, the scheme of compassionate appointment cannot be extended with reference to the date of death of the employee. Subsequent order passed in the writ petition setting aside the order of dismissal from service would entail the legal heirs of the deceased employee to get terminal benefits and not the concessional scheme of compassionate appointment in view of the fact that on the date of death of the employee, he was not in service and he was a dismissed employee and hence, there is no infirmity as such in respect of the decision taken by the Authority concerned.

7. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Krk



To

1.The Managing Director
Tamilnadu State Transport
Corporation (Kumbakonam) Limited
New Railway Feeder Road
Kumbakonam

2.The General Manager
Tamilnadu State Transport
Corporation (Kumbakonam) Limited
Maruthupathi, Karaikudi
Sivagangai District

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-10089[F] dated
04/03/2022)

order made in
W.P. (MD) No.8305 of 2021
03.03.2022

PNK(12.03.2022) 3P 4C