



W.A(MD)No.1063 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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and

C.M.P.(MD)No.8549 of 2022

The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

... Appellant / Respondent

-Vs-

H.Sridevagi

... Respondent / Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 28.02.2020 made in W.P(MD)No.3539 of 2020 on the file of this Court.

For Appellant : Mr.N.GA.Nataraj,
Government Advocate.

JUDGMENT

[Judgment of the Court was delivered by R.MAHADEVAN, J.)

This Writ Appeal is directed against the order dated 28.02.2020 made in W.P(MD)No.3539 of 2020.



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2.The respondent / writ petitioner has filed the said Writ Petition seeking to quash the order of the appellant dated 02.01.2020, rejecting the claim of the writ petitioner for compassionate appointment.

3.The learned Single Judge, after considering various decisions of this Court, quashed the order impugned in the Writ Petition and directed the appellant to issue appointment order to the writ petitioner on compassionate grounds.

4.The learned Government Advocate appearing for the appellant would submit that as per the scheme for appointment on compassionate grounds, an application has to be filed by the dependent of the deceased Government Servant within a period of three years from the date of death of the Government Servant and not within a period of three years from the date of attaining majority of the dependent. In support of the said contention, the learned Government Advocate relied on a judgment of the Hon'ble Supreme Court in the case of ***Umesh Kumar Nagpal Vs. State of Haryana and other*** reported in ***(1994) 4 SCC 138***, wherein it has been held that appointments on compassionate grounds have to be made in accordance with the rules, regulations or administrative instructions, by considering the financial



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condition of the family of the deceased Government Servant. According to the learned Government Advocate, the Writ Court without considering the said judgment of the Apex Court, has directed the appellant to issue appointment order to the writ petitioner on compassionate grounds. The learned Government Advocate also submitted that appointment on compassionate grounds cannot be given dehors the rules and regulations therefor. Thus, he would submit that the order passed by the Writ Court is liable to be set aside.

5.The only contention of the appellant is that the respondent did not make any application within three years from the date of death of the Government Servant. Perusal of records shows that the respondent is the daughter of the Government employee, who died on 07.01.2015 and the wife of the deceased submitted application on 18.11.2015 seeking compassionate appointment well within three years from the date of death of deceased, but it was not acted upon. Thereafter, she died on 03.01.2016. Since the family of the petitioner was in penurious circumstances even before attaining majority, the petitioner submitted application on 26.12.2017 which was rejected by the appellant, stating that the respondent had not completed the age of 18 years. Thereafter, on attaining majority, she again made application on 21.09.2019.



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6.The Writ Court relied upon a decision of the Division Bench of this

Court reported in **(2013) 8 MLJ 190 (P. Sathiaraman vs. The Secretary to Government and Ors)**, wherein it has been held as follows:-

“7.In T. Meer Ismail Ali V. The Tamil Nadu Electricity Board, Chennai, (MANU/TN/0337/2004 : 2004 (3) CTC 120) this Court held as under:-

I am, therefore, of the view that the petitioner's case deserve consideration inasmuch as he had diligently made a claim once in the year 1997 and thereafter, immediately after attaining the age of 18, in the year 2000 and in such circumstances, rejection of his application on the ground that it was not made within three years was not justified.

8. The decision of this Court in Meer Ismail Ali (cited supra) was upheld by a Division Bench of this Court in W.A. No. 48 of 2004 dated 01.12.2004. Subsequently, the SLP filed against it was also dismissed by the Hon'ble Apex Court vide its judgment in C.A. No. 6387 of 2004, dated 04.04.2005.

9.(a) Another Division Bench of this Court in Selvi R. Anbarasi Vs. Chief Engineer (Personnel), T.N.E.B., Chennai [MANU/TN/8585/2006 : 2006 (2) M.L.J., 200] held as follows:-

The learned counsel for the petitioner submitted that a similar issue, rejecting the compassionate ground appointment on the ground that the application was submitted beyond three years and the same was rejected



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earlier on the ground that the petitioner therein has not completed 18 years of age, was considered by this Court in W.P. No. 1584 of 2011 and this Court held that the applications having been made within a period of three years and the same having not been considered on the ground that the petitioner therein was not 18 years of age at that time, the subsequent application cannot be rejected on the ground that the application was submitted within three years. **The learned Judge directed the respondents not to treat the second application as an application for compassionate appointment, but it is to be treated as continuation of the application originally submitted.** The said judgment is reported in T. Meer Ismail Ali Vs. Tamil Nadu Electricity Board through its Chairman, and others, MANU/TN/0337/2004 : (2004) 3 C.T.C. 120. This Court, ultimately, directed the respondents to give compassionate appointment to the petitioner therein.

(b) In W.P. No. 21512 of 2003 one Indiraniammal challenged the rejection of compassionate appointment on similar ground. The learned single Judge dismissed the writ petition by order dated 4.8.2003 against which the petitioner therein filed W.A. No. 3050 of 2003 and the said writ appeal was allowed by the Division Bench (consisting of the Hon'ble Mr. Justice P. Sathasivam (as he then was) & S.K. Krishnan, J) by order dated 8.3.2005 following the earlier judgments as well as the Supreme Court Judgment reported in



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MANU/SC/0400/2000 : (2000) 6 SCC 493 (Balbir Kaur v. Steel Authority of India Ltd). Against the said decision Civil Appeal No. 2039 of 2006 was filed by the respondent Board herein which was dismissed by the Honourable Supreme Court on 30.3.2010.

(c)Dismissal of another W.P. No. 775 of 2004 by order dated 29.1.2005 on the ground of delay was considered by the Division Bench (F.M. Ibrahim Kalifullah, J. (as he then was) & P. Murugesan, J) in W.A. (MD). No. 29 of 2006 and by order dated 27.6.2006 the Division Bench allowed the writ appeal and directed to give compassionate appointment to the younger son of the deceased Board employee, who died on 15.11.1996. The said order of the Division Bench was also challenged by the Board in SLP (C) No. 15534 of 2007 which was also dismissed by the Apex Court on 8.4.2009.

(d)Three writ petitions were disposed of by one of us (NPVJ) i.e., W.P. Nos. 19914 of 2004, 32409 of 2004 and 10577 of 2005 by common order dated 24.7.2006 wherein similar issue was considered. In respect of the above three writ petitions, which were allowed, writ appeal was filed against one writ petition in W.A. No. 1206 of 2006 while implementing the order in respect of other two cases. The said writ appeal was allowed by the Division Bench on 29.9.2006. The respondent in the writ appeal viz., J. Karthick filed review application which was also rejected by the



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Division Bench on 25.8.2008. Against the dismissal of the writ appeal as well as rejection of review application, the said J. Karthick filed SLP (C) No. 2004-2005/2009 and on 23.2.2009 the SLPs were tagged along with Civil Appeal No. 2039 of 2006 viz., Indiraniammal case. Subsequently the said SLP was numbered as Civil Case Nos. 5068-5069 of 2009 which was allowed on 30.3.2010 and the said order reads as follows:

Leave granted. Heard learned counsel for the parties. These Appeals have been filed against the impugned judgment of the High Court of Madras dated 29th September, 2006 and subsequent order dated 25.8.2008 passed in the review application.

The Division Bench of the High Court has reversed the judgment of the learned single Judge only on the ground of delay who directed compassionate appointment to the appellant. **The appellant was a minor at the time of the death of his father and since the mother of the appellant applied within time, we are of the opinion that the appellant after becoming major should have been granted compassionate appointment.**

Accordingly, we allow these appeals, set aside the impugned judgment of the Division Bench and restore the judgment of the learned single Judge. No costs.

From the perusal of the above order it is evident that the



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order passed by the Division Bench in writ appeal and in the review petition were set aside and the order of the single Judge dated 29.9.2006 was restored.

(e) In W.P. No. 18575 of 2006 one of us (NPVJ) had an occasion to consider similar issue and allowed the writ petition on 20.6.2006 by following earlier orders. The said order was also challenged by the respondent in W.A. No. 42 of 2007 and the Division Bench (D. Murugesan, J & K. Venkataraman, J) dismissed the writ appeal on 2.7.2009. The Board filed SLP (C) No. 8305 of 2010 which was also dismissed by the Honourable Supreme Court on 6.7.2010. The said candidate viz., P. Venkatesan was given compassionate appointment by order dated 18.8.2010.

(f) Again similar matter was considered by one of us (NPVJ) in W.P. No. 29059 of 2003 and relief granted by order dated 7.7.2006, against which also the Board filed W.A. No. 1652 of 2006. The said writ appeal was dismissed by Division Bench (D. Murugesan, J. & S. Nagamuthu, J.) on 30.3.2009.”

In this case, the petitioner's father died on 07.01.2015. She attained majority on 21.09.2019. On 03.12.2019, she has made an application for compassionate appointment.

7. The abovesaid decision makes it clear that the application submitted by the minor of the deceased Government employee after attaining majority is



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immaterial when the first application was made by eligible member of the family within three years from the date of death of the Government employee.

In this case also, the mother of the petitioner has submitted application seeking compassionate appointment within three years. Thus, as held in the abovesaid decision, the application submitted by the respondent in the year 2019 has to be treated as continuation of the application submitted by her mother in 2015 which was well within three years time limit. The object of compassionate appointment is to give succor to the family which has been suddenly plunged into penury due to untimely death of its sole breadwinner. In this case, the deceased died leaving behind his wife and respondent / daughter as legal heirs. In 2016, the mother of the petitioner also died and the respondent is stated to be under the care and custody of her grandparents. Thus, the abovesaid facts also constitute penurious circumstances of the family of the deceased. Thus, we find no infirmity in the order passed by the Writ Court and therefore, we dismiss the Writ Appeal. Accordingly, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] & [J.S.N.P.,J.]
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