



W.P.(MD)No.5506 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5506 of 2019

and

W.M.P.(MD)No.4369 of 2019

S.Nemeena

... Petitioner

Vs.

1.The General Manager (Administration),
Tamil Nadu State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002.

2.The Deputy Manager (HRD),
Tamil Nadu State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records pertaining to the Impugned order passed by the 1st respondent herein against the petitioner vide Letter No.Dip 1005/ MaVa2/ AVPoKaThaNa/2018 dated 05.02.2019 and quash the same as illegal and consequently direct the 1st respondent herein to appoint the petitioner in any suitable post on compassionate ground on the basis of the petitioner's educational and other qualifications.



W.P.(MD)No.5506 of 2019

WEB COPY

For Petitioner : Mr.B.Brijesh Kishore
For Respondents : Mr.K.Sathiya Singh
Standing Counsel

ORDER

This Writ Petition has been filed to quash the impugned order passed by the first respondent herein in Letter No.Dip 1005/ MaVa2/ AVPoKaThaNa/2018 dated 05.02.2019 and seeking for a consequential direction to the first respondent to appoint the petitioner in any suitable post on compassionate ground on the basis of the her educational and other qualifications.

2. Heard Mr.B.Brijesh Kishore, Learned Counsel appearing for the petitioner and Mr.K.Sathiya Singh, Learned Standing Counsel appearing for the respondents. Perused the material documents available on record.

3. The petitioner's father, namely, Tr.R.Somasundaram, died on 01.10.1992, while in service as Foreman in Thiruvalluvar Transport Corporation, leaving behind the petitioner and petitioner's mother, namely Meenakshi Ammal and petitioner's brother, namely Senthil Kumar and petitioner's sister Mrs.Meena



W.P.(MD)No.5506 of 2019

WEB COPY

and grandmother Mrs.Lakshmi Ammal. Immediately after the death of the petitioner's father during the year 1992, the petitioner's mother has submitted a representation to provide compassionate appointment to the petitioner's mother.

4. Admittedly, the petitioner was 12 years old, at the time of the death of her father. The legal heir certificate states that she is the 3rd daughter of the deceased employee. The first son, namely, Senthil @ Ramesh Senthilkumar was 16 years old and the 2nd daughter, namely Jeeva @ Veena was 14 years old and the petitioner is the 3rd daughter who was 12 years old. Since the petitioner was minor, at the time of submitting the application and hence she is not entitled to employment.

5. The issue of compassionate appointment was referred to the Full Bench of this Court by framing the following question for reference:

"Whether the view taken in A.Kamatchi's case holding that an application for compassionate appointment made even beyond three years of the death of the deceased needs consideration, is the correct law or the judgment of the Division Bench in N.Renugadevi's case, where a contradictory view has been taken, is the correct law?"



W.P.(MD)No.5506 of 2019

WEB COPY

The Hon'ble Full Bench of this Court in W.P. (MD) Nos.7016 of 2011 and batch by judgment dated 11.03.2020 has considered all the previous judgments and discussed in detail after taking note of various Government order / guidelines in relation to compassionate appointment. The scope of belated application by minors attaining majority or other circumstances was considered and the Hon'ble Full Bench had categorically held that the three years period ought to be taken into account from the date of death of the deceased employee and it cannot be calculated from the date of attaining majority. Following the Hon'ble Full Bench judgment, the Hon'ble Division Bench had passed orders in W.A.(MD) No.682 of 2022 in the case of V.Deepika Vs. the District Collector and others, W.A.(MD) No.457 of 2022 in the case of P.Babyshalini Vs. the Principal Secretary and others and W.A.(MD) No.769 of 2022 in the case of K.Nambirajan Vs. Divisional Engineer and others, wherein, the claim of the legal heirs was rejected and held that the application was 5/8 <https://www.mhc.tn.gov.in/judis> W.P.(MD).No.21643 of 2017 submitted belatedly beyond the period of three years and the three years period ought to be calculated from the date of death of the Government servant. Any claim beyond the scheme of compassionate appointment cannot be entertained.



W.P.(MD)No.5506 of 2019

WEB COPY

6. The object and purpose of the compassionate appointment is to provide immediate financial assistance to the family of the deceased Government servant, so as to protect them against any form of indigent because of the death of the sole bread winner of the family. The Hon'ble Supreme Court has taken a consistent view that the family members of the deceased employee should not be considered for appointment on compassionate basis beyond the period fixed under the scheme. The Hon'ble Supreme Court in the case of Sanjay Kumar Vs. State of Bihar, reported in (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application filed by the dependent of the deceased employee after he attains majority cannot be entertained. Considering the belated applications will be contrary to the scheme framed by the Government. It will also be contrary to the judgments of the Supreme Court. The Hon'ble Full Bench has held that the scheme does not permit entertaining an application by a dependent after attaining majority, hence the period of limitation ought to be considered from the date of death alone and not from the date of attaining majority.



W.P.(MD)No.5506 of 2019

WEB COPY

7. Therefore, this Court following the judgment of the Hon'ble Full Bench and the principles laid down by the Hon'ble Supreme Court in several cases, is of the considered opinion that the petitioner's claim for compassionate appointment cannot be considered for three years period after he attains majority, but it ought to be considered from the date of death of the deceased employee. Hence, the claim of the petitioner is rejected.

8. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

9. The learned counsel appearing for the petitioner submitted that the mother of the petitioner has submitted an application. This Court has not expressed any opinion on the mother's application and it is left to the petitioner's mother to seek appointment as per law.

Index : Yes / No
Internet : Yes
KSA

20.12.2022



WEB COPY



W.P.(MD)No.5506 of 2019

S.SRIMATHY, J

KSA

**Order made in
W.P.(MD)No.5506 of 2019**

20.12.2022