



W.A.(MD)No.769 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.769 of 2022

K.Nambirajan

... Appellant

Vs.

1.The Divisional Engineer,
Highways,
(Construction and Maintenance),
Thoothukudi.

2.The Assistant Divisional Engineer,
Highways,
(Construction and Maintenance),
Thiruchendur,
Thoothukudi District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.11826 of 2021, dated 03.03.2022.

For Appellant :Mr.R.Balakrishnan

For Respondents :Mr.S.P.Maharajan

Special Government Pleader



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JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

This Writ Appeal is filed challenging the order passed in Writ Petition W.P.(MD)No.11826 of 2021, dated 03.03.2022.

2. The prayer in the writ petition W.P.(MD)No.11826 of 2021 is for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Kurippanai No.165/2017/A1, dated 18.11.2020 and to quash the same and further, to direct the respondents to give employment to the petitioner on compassionate grounds considering the pathetic situation of the petitioner's family due to the death of petitioner's father Kandasamy on 07.04.2015.

3. The brief facts as stated in the affidavit of the writ petition are that the petitioner's father namely Kandasamy



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who was serving as Road Worker, died on 07.04.2015. The petitioner's father was the only breadwinner of the family. The petitioner's mother submitted an application seeking compassionate appointment within 3 years from the date of death of the deceased employee. The petitioner contended that the second respondent mechanically returned the application. The petitioner is having one younger sister, namely Gowri Lakshmi and she is doing her B.Sc., Chemistry. The petitioner has completed Higher Secondary Education in the year 2018 and he is in search of job. The petitioner's mother submitted an application on 22.03.2017. The second respondent, vide communication, dated 03.05.2017, directed the petitioner's mother to submit the documents for further processing. At the time of the death of the petitioner's father, the petitioner was minor and he attained majority on 01.01.2019. After collecting the relevant documents the petitioner had submitted an application seeking employment



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on 23.01.2019. The delay in submitting the application is due to delay in getting documents from the appropriate authorities. After receiving all the documents, the second respondent on 18.11.2020, passed the impugned order returning the application stating that the application has been submitted belatedly after the period of 3 years. Aggrieved over the said impugned order the writ petition was filed.

4.The learned Single Judge has held that the mother of the petitioner had crossed the age limit and the petitioner has submitted an application belatedly and had dismissed the writ petition and the relevant portion of the order is extracted hereunder:

“4. This Court is of the considered opinion that the mother of the writ petitioner crossed the age limit. Therefore, based on the application dated 22.03.2017, the respondents cannot provide appointment to the writ petitioner. There is no procedure for conversion of application under the scheme of compassionate appointment. Every application submitted by the legal heir is to be considered and there is no provision to entertain another application from another legal heir or for conversion of application submitted by the mother to the



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5. This being the scope of the scheme of compassionate appointment and considering the fact that the petitioner is aged about 20 years and he has to work hard and try to come out in his life by right means, this Court wishes the petitioner for his bright future."

Aggrieved over the dismissal order, the present writ appeal is filed.

5. Heard Mr.R.Balakrishnan, learned Counsel appearing for the appellant and Mr.S.P.Maharajan, learned Special Government Pleader appearing for the respondents and perused the records.

6. The second respondent has stated in the order dated 18.11.2020, that the petitioner's father died on 07.04.2015 and the petitioner had submitted an application on 23.01.2019, which is beyond 3 years limitation prescribed in the Government order and rejected the application.

7. The contention of the appellant that the 3 years



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period should be counted from the date of attaining majority.

This contention cannot be considered, since the Honourable Full Bench of this Court has held that 3 years limitation period should be accounted from the date of death of the deceased employee. The scope and object of compassionate appointment is to tide over the situation due to sudden demise of the sole breadwinner of the family and to mitigate the indigent circumstances of the family of the deceased government employee.

8. The Full Bench of this Court in W.P. (MD) Nos. 7016 of 2011 and batch by judgment dated 11.03.2020 considered the scope of providing compassionate appointment outside the scheme framed by the Government orders. After considering several judgments of the Honourable Supreme Court, the Full Bench has held that the application beyond three years even though it is a case where the minor filing an application after attaining majority is outside the scope and scheme of the



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government orders. Hence the application filed by the petitioner after attaining majority is belated application and outside the scope of compassionate appointment. In a similar case in W.A. (MD) No. 682 of 2022 this Court has followed the Full Bench order and declined to entertain the belated petitions beyond three years limitation period. Hence the petitioner's application cannot be considered since it is beyond three years of limitation period.

9. In the present case, the entire family has come out of the sudden crisis and the appellant's sister is doing B.Sc., and the appellant is also qualified. The appellant has not made out any case to consider his claim for compassionate appointment. The learned Single Judge is absolutely right in holding that the petitioner in the writ petition is not entitled to the compassionate appointment. However, the writ petitioner submitted that his mother had submitted an application within



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the prescribed period of 3 years limitation. However, the Learned Single Judge had held that the petitioner's mother has crossed the age limit and has declined the claim of the petitioner regarding his mother's application. This Court is of the considered opinion that the Learned Single Judge is absolutely right in stating that any application ought to be considered within the scope and scheme of the government orders. In the present case since the petitioner's mother had crossed the age limit, then the mother's application also is liable to be dismissed. Hence the petitioner's mother's application is also dismissed.

10. Hence, this Court finds no merit in this appeal. Accordingly, this writ appeal is dismissed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
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