



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14141 of 2021

S.Balamurugan

... Petitioner

vs.

1.The Principal Secretary to Government
Transport Department
Fort St.George, Secretariat
Chennai-9

2.The Tamil Nadu State Express
Transport Corporation Ltd.,
Rep.by its Managing Director
Thiruvalluvar House
Pallavan Salai, Chennai-1

3.The Tamil Nadu State Express
Transport Corporation Ltd.,
Rep.by its Senior Deputy Manager
Thiruvalluvar House
Pallavan Salai, Chennai-1

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in Kurippu No.441402/MaVa2/A.Vee.Poo/KaThaNaa/2021, dated 27.04.2021 as illegal, quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate ground in the light of G.O.Ms.No.18, dated 23.01.2020, within time frame fixed by this Court.

For Petitioner : Mr.Saravanan.S.

For Respondents : Mr.D.S.Nedunchezian

Government Advocate for R1

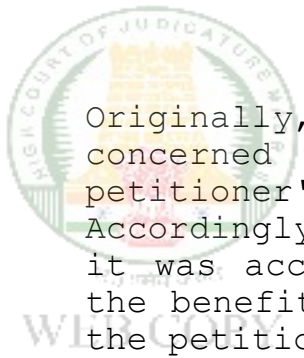
Mr.K.Sathya Singh

Standing Counsel for R2 & R3

O R D E R

The order dated 27.04.2021, passed by the third respondent, rejecting the claim of the petitioner for compassionate appointment, is under challenge in this writ petition.

2. The petitioner states that his father was working as Driver in the respondent - Transport Corporation. He proceeded on medical leave for taking treatment. The petitioner further states that even now, his father is taking treatment continuously.



Originally, his father submitted application to the Authority concerned to provide alternate employment. However, finally, the petitioner's father agreed to retire from service voluntarily. Accordingly, he submitted application for voluntary retirement and it was accepted by the respondent - Transport Corporation and all the benefits of voluntary retirement have been settled in favour of the petitioner's father.

3. The learned counsel for the petitioner states that the petitioner's father has gone on voluntary retirement based on his medical condition and therefore, the petitioner being son is eligible for compassionate appointment.

4. This Court is of the view that the learned counsel for the petitioner has misconceived the concept of voluntary retirement scheme and medical invalidation. The scheme of voluntary retirement is a scheme, which can be opted by the employee concerned for the purpose of relieving from service for all his purposes prematurely with all pensionary and other terminal benefits. Whereas, medical invalidation is concerned, it is entirely different, for which the employee need not submit any application for voluntary retirement and the Department will refer the employee to the Board to ascertain his fitness and thereafter, will pass orders on medical grounds. Therefore, only if an employee has been relieved from service on the basis of medical invalidation by the Competent Authority, then the scheme of compassionate appointment can be applied, but not otherwise. However, if an employee, even on medical grounds, submitted application for voluntary retirement, then it is to be construed as he has retired from service and received all the retirement and other terminal benefits, including pension. Therefore, such employees are not eligible for compassionate appointment.

5. This being the scope of compassionate appointment, the petitioner's father admittedly is retired from service under voluntary retirement scheme based on his application and therefore, the benefit of the scheme of compassionate appointment cannot be extended to the petitioner. Hence, this Court do not find any infirmity as such in the impugned order passed by the third respondent.

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

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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To:

The Principal Secretary to Government
Transport Department,
Fort St.George, Secretariat,
Chennai-9.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-10476[F] dated
07/03/2022)

+1 CC to M/s.SPL GP (SR-10594[F] dated 08/03/2022)

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