



W.P.(MD).No.8068 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.8068 of 2017

C.Nitthese

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Express Transport Corporation,
Pallavan Road,
Chennai – 600 002.

2.The General Manager,
(Operation and Maintenance),
Tamil Nadu State Express Transport Corporation,
Pallavan Road,
Chennai – 600 002.

3.The Branch Manager,
Tamil Nadu State Express Transport Corporation,
Senkottai Branch,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the second respondent in his proceedings in Letter No:Depo 1757/Ma.Va.2/SETCTN/2013 dated 23.03.2017 and quash the same and consequently direct the respondents to appoint the petitioner in the respondent Department for the suitable post.



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For Petitioner : Mr.S.Saji Bino

For Respondents : Mr.K.Sathiya Singh,
Standing Counsel.

ORDER

This Writ Petition is filed to quash the impugned order dated 23.03.2017 with a consequential relief to grant compassionate appointment.

2. The brief facts as stated in the affidavit are that the petitioner's father was an employee in the respondent Corporation from 28.04.1989 as a Driver. On 15.01.2008, due to sudden illness, the petitioner's father died. The petitioner has submitted in the affidavit that his mother submitted an application on 14.11.2013 seeking compassionate appointment to the petitioner. The respondents have rejected the said application stating that the application was submitted belatedly and the petitioner was a minor at that time. In the meanwhile, the petitioner was qualified in Diploma in Electrical and Electronic Engineering. After attaining majority on 27.05.2016, the petitioner had applied for compassionate appointment on 16.02.2017. The respondents rejected the same on 23.03.2017 stating that the application has been submitted beyond the



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period of 3 years from the date of death of the petitioner's father. Aggrieved over the same, the present Writ Petition is filed.

3. The contention of the respondents is that the petitioner was minor at the time of death of his father. After attaining majority, the petitioner has applied for compassionate appointment. Therefore, the petitioner has submitted an application beyond the period of 3 years. Moreover, the petitioner's mother submitted an application on behalf of his son, which was rejected citing that the petitioner was only minor. Therefore, on these two grounds, the petitioner was not entitled for compassionate appointment. Hence, prayed to dismiss this Writ Petition.

4. Heard Mr.S.Saji Bino, learned counsel for the petitioner and Mr.K.Sathiya Singh, learned Standing Counsel appearing for the respondents.

5. The issue of granting 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



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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?"

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 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.



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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.



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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.

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Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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