BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.26877 of 2022

T.Arun Kumar ... Petitioner

-vs-

1.The Additional Chief Secretary/
Commissioner of Commercial Tax,
Commissioner of Commercial Tax Office,
Chennai.

2.The Joint Commissioner of Commercial Tax,
Trichy Division,
Trichy.

3.The Assistant Commissioner of Commercial Tax,
Commercial Tax Office,
Pudukottai District. ... Respondents

[Amendment made in the cause title as per the order of this Court dated 16.12.2022 in W.M.P(MD).No.21639 of 2022 in W.P(MD).No. 26877 of 2022]

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the order passed by the 3rd respondent in Na.Ka.No.4018/2020/A6 dated 15.06.2022 and quash the same as illegal and consequently direct the 3rd respondent to appoint the petitioner under compassionate ground in the office of the 3rd respondent.

For Petitioner : Mr.G.Thiruvarutselvan

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the 3rd respondent in Na.Ka.No.4018/2020/A6 dated 15.06.2022, quash the same as illegal and consequently, direct the 3rd respondent to appoint the petitioner under compassionate ground in the office of the 3rd respondent.

2. The case of the petitioner is that the petitioner was adopted by one Thangaraj on 27.01.2012 and the petitioner's adopted father died on 02.11.2014, while he was working in Commercial Tax Office. Thereafter, the petitioner made an application on 12.09.2017. However, the said application was rejected on 28.01.2019 on the ground that at the time of filing the application, the petitioner has not attained the majority. Thereafter,

after attaining the majority, the petitioner made an application on 13.10.2020 for compassionate appointment and the same was rejected on the ground that the petitioner has not attained the majority on the date of the application. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that even though the petitioner's adopted father died on 02.11.2014, within three years, the petitioner has made a representation on 12.09.2017 and the same was rejected on the ground that the petitioner was a minor at the time of filing the application. Thereafter, in the year 2020, after attaining the majority, the petitioner has made a representation on 13.10.2020, however, it was rejected on the ground that the petitioner has not attained the majority on the date of his application. Hence, he prays for allowing the present writ petition.

4. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on behalf of the petitioner and also perused the materials available on record.

5.The issue with regard to compassionate appointment has been decided by the Full Bench of this Court in W.P.(MD) Nos.7016 of 2011 etc., batch dated 11.03.2020. In a reference made to the Full Bench, the Full Bench has held as follows:

> *“In view of the above, the reference is answered as under:-*
>
> *a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible.*
>
> *b) In view of the above the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly.”*

6. As per the said decision, it is clear that the appointment on compassionate basis should be strictly be in accordance with the Government Orders/the Scheme framed for the said purpose by the employer. In the case on hand, it is not in dispute that after the death of the petitioner's father, on 12.09.2017, the petitioner submitted an application for compassionate appointment, which was rejected on the ground that the petitioner has not attained majority during the time of filing the application and after attaining majority, on 13.10.2020, he submitted the application which is well beyond the prescribed period and it was also rejected by the authority. Since as per the decision of the Full Bench of this Court (supra), the rejection has been made, no interference is warranted to the impugned order. Hence, this writ petition is dismissed. No costs.

16.12.2022

Index : Yes/No
Internet : Yes
ssb

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M.DHANDAPANI, J.

ssb

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