



W.P.(MD)No.28198 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28198 of 2022

R.Karthikeyan

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
New Railway Station Road, Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited, Karaikudi Region,
Karaikudi.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to consider petitioner representation dated 21.11.2022 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.K.Jagadees Balan
Standing Counsel



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ORDER

This Writ Petition has been filed for a direction to the respondents to consider the petitioner's representation dated 21.11.2022 in accordance with law.

2. The case of the petitioner is that the petitioner's father Rajendran was working as a Conductor in the respondent Transport Corporation. While so, he died in harness on 20.05.2017 leaving behind his wife, the petitioner and his younger brother as his legal heirs. At the time of his death, the petitioner was 17 years. After completed 18 years, the petitioner could not register his name for getting compassionate appointment. Thereafter, on 21.11.2022, the petitioner submitted a representation to the respondents seeking compassionate appointment. However, the same has not been considered. Hence, the present Writ Petition.



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3. The learned counsel appearing for the petitioner would submit that it would suffice, if the respondents are directed to dispose of the representation of the petitioner, dated 21.11.2022, on merits and in accordance with law, within a specified period.

4. The learned Standing Counsel appearing for the respondents would submit that as per the scheme of Transport Corporation, if the petitioner made a representation within a period of three years from the date of death of the employee, the same will be considered.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. 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:



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“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.”

7. 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, the petitioner, who is one of the legal heir, submitted a



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representation for compassionate appointment, which was not considered on the ground that the application has been submitted after a lapse of five years and as per the G.O. Ms. No.120 (Labour & Employment) dated 20.6.1995, the application ought to have been made within the prescribed period of three years and in the prescribed format.

8. In view of the above, this Writ Petition is dismissed. No costs.

15.12.2022

Index : Yes / No

Speaking Order : Yes / No

vji

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