



W.P.No.22118 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 19.12.2022

Orders delivered on 22.02.2023

CORAM :

THE HON'BLE Mrs.Justice **J.NISHA BANU**

W.P.No.22118 of 2015

G.T.Raguraman

.. Petitioner

Vs

1. The Director,  
Directorate of School Education,  
Chennai-600 006.

2. The District Educational Officer,  
Cuddalore,  
Cuddalore District.

3. The Head Master,  
Government Girls Higher Secondary School,  
Pudhupettai, Cuddalore District

..Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for records relating to the impugned order in O.Mu.No.8417/A1/11 dated 20.12.2011 on the file of the



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2<sup>nd</sup> respondent and quash the same by directing the 2<sup>nd</sup> respondent to consider the petitioner's applications dated 20.08.2006, 06.12.2006 and 21.11.2011 and to appoint the petitioner in a suitable post.

For Petitioner : Mr.R.Saseetharan  
for Mr.K.JShiva Arudhra  
For Respondents : Mr.S.Mythreye Chandru

### **ORDER**

This writ petition has been filed challenging the order passed by the 2<sup>nd</sup> respondent, by which, the 2<sup>nd</sup> respondent rejected the application of the petitioner seeking compassionate appointment and to direct the 2<sup>nd</sup> respondent to consider the petitioner's applications dated 20.08.2006, 06.12.2006 & 21.11.2011 and to appoint him in a suitable post.

2. The brief facts of the case of the petitioner are as follows:

The petitioner's mother, Geethanjali, who was working as a Secondary Grade Teacher in the Government Girls High School, Pudhupettai, Cuddalore (now upgraded as Government Girls Higher Secondary School) died while in service on 21.08.1987, leaving the petitioner as her only son and legal heir. At the time of his mother's death,



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the petitioner was 2 years old. Prior to her death, due to misunderstanding between the petitioner's father/Mr.Tamilvanan and mother/Tmt.Geethanjali, the petitioner's mother left the matrimonial home and was residing with her father, S.Sambasivam. Within one month from the death of the petitioner's mother, his father deserted the petitioner and married another lady as his second wife without doing any last rites to his mother and the whereabouts of his father was also not known till date. The petitioner's grandfather brought the petitioner with much difficulty. Due to the irresponsible acts of his father, the petitioner's grandfather filed a suit in O.S.No.55 of 1989 on the file of District Munsif Court, Panruti for declaration that the petitioner was the only legal heir of the deceased mother, in which, the petitioner's grandfather was appointed as his legal guardian and permitted him to receive the amount payable to the deceased Geethanjali from the Government on behalf of the petitioner. Subsequently, G.O.Ms.No.545 Education Science & Technology (M1) department dated 5.7.21995 was passed in favour of the petitioner's grandfather and he received the family pension of the petitioner's mother on behalf of the petitioner. When the



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petitioner attained the age of majority, the petitioner's grandfather was barred to receive the amount by communication dated 14.09.2004 by the Treasury Officer to the Accountant General. Subsequently, the petitioner completed his higher secondary course and on 20.08.2006 and 04.10.2006, he made applications to the School Head Master, Government Girls High School, Pudhupettai, Cuddalore District, seeking appointment on compassionate ground. His application was forwarded to the 2<sup>nd</sup> respondent by the school Head Master. But the 2<sup>nd</sup> respondent asked to fill some details in his application and he also made another representation dated 06.12.2006 to the Head Master who forwarded his application to the 2<sup>nd</sup> respondent and on 20.01.2007, the 2<sup>nd</sup> respondent sought some clarifications from the Headmaster and requested him to send all originals along with attested copies. The issue raised by the 2<sup>nd</sup> respondent is with regard to the legal heir. The 2<sup>nd</sup> respondent sought report of the husband of the deceased mother pointing him as first class legal heir which is entirely contrary to the order made by the Civil Court in O.S.No.55 of 1989, when the legal heir issue was once for all settled by the order of the civil court. Moreover, in the said



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Government Order, it was clearly stated that the deceased Tmt.S.Geethanjali was living separately from her husband and the petitioner is her only legal heir. The petitioner has no movable and immovable properties standing in his name and he is the only legal heir of his mother and no one in the family is in government service and he is an indigent person. On 03.12.2007, he made representation to the 2<sup>nd</sup> respondent through the school Headmaster to appoint him on compassionate ground. The petitioner received reply on 14.12.2007 rejecting the appointment on compassionate ground. The petitioner last drawn monthly family pension is Rs.2,011/- till 30.08.2010 alone and after that, there is no means to lead his life and his indigent position is not considered by the 2<sup>nd</sup> respondent. On 28.10.2010 also, he made representation to the 2<sup>nd</sup> respondent through School Headmaster but he did not get any reply. Again, he made representation on 21.11.2011 to the 2<sup>nd</sup> respondent, for which, he received reply on 20.12.2011 rejecting his application showing G.O.Ms.No.202 dated 08.10.2007 that the petitioner did not apply within 3 years from the date of death of his mother. Hence, this writ petition with the aforesaid reliefs.



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3. The only ground on which the petitioner's application was rejected is that the application was not made within a period of three years from the date of the death of the employee. This reasoning cannot be sustained. One such order passed by this Court in **W.P.No.26343 of 2012** dated **23.11.2016** in the case of **M.Sathish Kumar Vs. The Director of School Education and others**, had placed reliance on two orders of the Hon'ble Division Benches of this Court and ultimately held that, when an application is made within three years from the date of attaining majority, the claimant would be entitled for appointment on compassionate grounds. The relevant portion of the order reads as follows:

*'4. In this context, a Division Bench of this Court in a judgment reported in The Chief Engineer/Personnel, T.N.E.B., & another Vs. S.Suder reported in was held as follows:*

*"4.In the judgment reported in 2001Writ L.R.601 in the case of"Ramadoss.D. Vs. The Chief Engineer, T.N.E.B.", this Court (D.Murugesan,J)directed the consideration of the application made within a period of three years after attaining the majority by placing reliance on the very same Circular in B.P.No.46, dated 13.10.1995.*

*5. Subsequently, in the judgment reported in*



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2002(4) L.L.N.1132, (D.Murugesan,J.), in the case of "P.Ravi V.Chief Engineer (P), T.N.E.B.", also, the very same Circular was relied upon and the application for appointment on compassionate grounds was directed to be considered.

6. Justice P.D.Dinakaran, has also taken the very same view by following the very same Circular dated 13.10.1995, in W.P.No.19673 of 2003, in the order dated 23.09.2003, in the case of "J.Jayakaran Vs. The Superintending Engineer, Theni Electricity Distribution Circle, Theni" and the application for appointment on compassionate grounds was directed to be considered.

7. Justice K.Govindarajan has also taken the same view in Writ Petition No.13099 of 2003, order dated 30.10.2003, in the case of "G.Muthamilselvan V. The Chief Engineer (Personnel) and Anr."

8. Justice F.M.Ibrahim Kalifulla has also taken the same view in the decision reported in 2004(3) CTC 120, (2004) MLJ 238 in the case of "Meer Ismail Ali.T. V. The Tamil Nadu Electricity Board". We are told that the order in the said case of "Meer Ismail Ali" was confirmed in the Writ Appeal by the Division Bench in W.A.No.4008 of 2004, by judgment dated 1.12.2004 and as against the said judgment dated 1.12.2004, the Special Leave Petition in Civil Appeal No.6387 of 2005, was also dismissed by the Supreme Court, by judgment dated 4.4.2005."

5. In a very similar issue, a Division Bench of this Court in W.P.No.3050 of 2003 observed as follows:



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"9. Similar question came up for consideration before a Division Bench of this Court in Writ Appeal No.3050 of 2003 in the case of "Indiraniammal V.The Chief Engineer (Personnel) and Anr." and by judgment dated 08.03.2005, the Division Bench set aside the impugned order therein in rejecting the request of the petitioner therein for appointment on compassionate grounds and directed the Board to consider the application.

10. There cannot be a controversy in view of the settled position of law that appointment on compassionate ground is not automatic, as it would amount to back door entry to a post, by-passing the Rules to be followed for such appointment. Nevertheless, to tide over the financial constraints of a family due to sudden demise of the breadwinner of a family, the State Government or its undertaking or for that purpose, any employer, would be entitled to frame Scheme/Rules for such appointment by prescribing the conditions as well as the eligibility. Hence, the request for appointment on compassionate grounds would be considered with reference to the Scheme/Rules or any of the provisions framed for the said purpose, either by the Government or by the employers, as the case may be.

11. In the case on hand, the father of the respondent, while he was working as Wireman in the office of the Assistant Engineer, TNEB, Kazhuvanthilai, Kanyakumari District, died due to illness on 07.03.1998. At the time of the death of his father, the respondent was 15 years old and for the purpose of making application for appointment on compassionate grounds, he should have completed 18 years. Hence, he could not make any application for appointment on compassionate grounds. By placing reliance on B.P.No.46, dated 13.10.1995, he



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*made application on 3.9.2002, within a period of four days from the date of his attaining majority, i.e., 18 years. That application was rejected on the ground that the same cannot be entertained as per the Circular in vogue on the date of the application. Presumably, the order of rejection was passed on the basis of the Memo, dated 6.4.2002.*

*12.As we have already referred that the application for compassionate appointment is maintainable by a person within a period of three years after he/she attains the majority, irrespective of the fact that the breadwinner died while such person was a minor in terms of the proceedings of the Board in B.P.No.46 dated 13.10.1995. This position is not in dispute. We may also once again refer to the fact that following the very same Board proceedings in B.P.No.46, dated 13.10.1995, consistently, this Court had taken the view that the application seeking for appointment on compassionate grounds, has to be considered in the event when such applications are made within a period of three years after he/she attains the majority."*

*6. If the above proposition is applied to the present facts of the petitioner, then the petitioner would be entitled for an appointment on compassionate ground, since the application has been made within a period of three years from the date of attaining majority. Since this application for compassionate appointment was rejected on the sole ground that the same was time barred and by applying the ratio in the decision of the Division Bench, the impugned order cannot be sustained and is*



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*liable to be set aside. Accordingly, the impugned order dated 31.01.2012 passed by the third respondent is quashed.'*

4. The aforesaid order is self explanatory. What should be seen in present case is that whether the minor legal heir had made an application seeking for compassionate appointment within three years from the date he had attained his majority.

5. In the instant case, the petitioner herein was born on 30.08.1985 and his mother died on 21.08.1987. Thus, at the time of death of his mother, he is only two years old and he had attained his majority on 30.08.2003 and after completing his higher secondary course, he had made his application seeking for appointment on compassionate ground on 20.08.2006, which is within a period of three years. By applying the ratio laid down in the aforesaid decision, the petitioner would be entitled for appointment on compassionate grounds.

6. Further, after the death of his mother, the petitioner was put to lurch. His father, who is the natural guardian deserted the petitioner. Even before the death of his mother, his father was not living with his mother. Both of them were living separately and his father also married another



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women as his second wife and he did not do any last rites to his wife/mother of the petitioner. His whereabouts is also not known to the petitioner till date. The petitioner is the only legal heir of the deceased Tmt.S.Geethanjali is also proved through the order passed in O.S.No.55 of 1989 whereby the grandfather of the petitioner was appointed as a guardian to receive the beneficial amount payable to the deceased Tmt.Geethanjali from the Government on behalf of the petitioner and also to receive the family pension on behalf of the petitioner. The petitioner is an indigent person. He has no source of income and he does not own any movable or immovable property.

7. Therefore, applying the law governing compassionate appointment culled out from the above cited judgments, this Court is of the view that the application made by the petitioner for appointment on compassionate ground may not be termed as a belated application and thus, the impugned order cannot be sustained.

8. For the foregoing reasons, the impugned order passed by the 2nd respondent in proceedings O.Mu.No.8417/A1/11 dated 20.12.2011 is set



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aside and the matter is remanded back to the second respondent who shall consider the petitioner's application, in the light of the observations made in this order and without reference to the delay in making the application and pass favourable orders, within a period of three months from the date of receipt of a copy of this order. The Writ Petition is allowed accordingly. No costs.

22.02.2023

Index :Yes/No  
Speaking/Non-speaking order  
vsi

To

1. The Director,  
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Chennai-600 006.
2. The District Educational Officer,  
Cuddalore, Cuddalore District.
3. The Head Master,  
Government Girls Higher Secondary School,  
Pudhupettai, Cuddalore District



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J.NISHA BANU, J.

(vsi)

Pre-delivery order in  
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