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W.P.No.20342 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.20342 of 2023

S. Maria Lawrance

... Petitioner

Vs.

The Superintending Engineer,
CEDC/South TANGEDCO/TNEB,
K.K. Nagar, Chennai – 600 078.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in Ref. Letter No.552/8 Mey.Po/Se.MiPaVa/They.1/Ni.Pi.3/Vu.1/Koo.Vaa.Vey/2023 dated 03.03.2023 and consequently direct the respondent to provide employment to the petitioner on the ground of compassionate appointment.

For Petitioner : Mr.P. Madasamy

For Respondent : Mr.David Sundar Singh,
Standing Counsel



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ORDER

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Heard Mr.P. Madasamy, learned counsel for the petitioner, as well as Mr.David Sundar Singh, learned standing counsel appearing for the respondent.

2. The petitioner's mother Marry Josphin, who was working as Account Supervisor under the respondent Department, died on 24.09.2017. Subsequently, the father of the petitioner had given a representation on 16.04.2019 to the respondent herein, seeking for appointment on compassionate ground in favour of the petitioner herein, who, at that point of time, was minor. The representation was ultimately rejected on 21.08.2019 on the ground that the petitioner did not attain majority, as on the date of the application. Thereafter, the father of the petitioner had given another representation dated 24.09.2020 and the same was kept pending for three years. After attaining majority, the petitioner has given a representation on 22.07.2021. However, the respondent has rejected the petitioner's father's representation dated 24.09.2020, after his death, without considering the petitioner's



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representation, through the impugned order dated 03.03.2023. Being aggrieved against the rejection, the petitioner has once given a representation to review the impugned order on 21.06.2023. Since there was no progress on the same, the petitioner has challenged the impugned order by filing the present Writ Petition.

3. Learned counsel for the petitioner submitted that the petitioner attained the majority in the year 2021 itself and since the application was made within a period of three years from the date of the death of his mother, the respondent ought not to have rejected the application.

4. On the contrary, learned standing counsel appearing for the respondent submitted that as per G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, the minimum age requires for making an application on compassionate appointment, is 18 years and therefore, there is no infirmity in the rejection.

5. I have given careful consideration in the submissions made on either side.



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6. The only ground on which the petitioner's father's application was rejected is that the petitioner did not possess the minimum age of 18 years as on the date of his application.

7. After the petitioner's mother died on 24.09.2017, his father has given a representation on 16.04.2019 for compassionate appointment, which is within the stipulated period of three years from the date of the death of the employee. Admittedly, the petitioner was a minor at the relevant point of time. After becoming major, he had given a representation on 22.07.2021, which is also not disputed.

8. The facts involved in the present case with regard to the claimant being a minor at the time of the application, had come up for consideration before this Court in several of its decisions wherein, it has been held that the requirement of an application to be made within three years, cannot be applied in a straight-jacket formula and had directed the Government to issue appointment orders on compassionate grounds. I had also taken a similar view in the case of *'R.Vishnupriyan Vs. The*



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State of Tamil Nadu, Rep by Secretary to Government, Social Welfare and Nutritious Meal Programme Department and others' passed in

W.P.No.1866 of 2020 dated 23.07.2021 in the following manner:-

.....“ 5. *The issue as to whether, the respondents are justified in claiming that an application requires to be made within a period of 3 years, when such an applicant is a minor at the relevant point of time, came up for consideration before the Hon'ble Division of this Court in the case of S.Velraj Vs. The Superintendent Engineer and another and the Hon'ble Division Bench, in its order dated 16.12.2015 passed in W.A.No.1400 of 2011, had set aside the order of rejection, by holding that the requirement for making an application by a minor at the relevant point of time, is not justifiable. The relevant portion of the order reads thus:*

"3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on



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attaining majority, the appellant rightly applied for appointment on compassionate ground. However taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for appointment on compassionate ground, on attaining majority, the respondents have to consider the appellant's application for appointment on compassionate ground.

4. In view of the above, the Writ Appeal is allowed and the order of the learned Single Judge and also the order of rejection for appointment on compassionate ground are set aside and the matter is remanded to the first respondent for fresh disposal, in the light of the judgment passed by this Court. Such exercise shall be completed within a period of



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twelve weeks from the date of receipt of a copy of this judgment. No costs."

6. A similar view was taken by this Court in the case of C.Muthulakshmi and another Vs. The District Collector, Krishnagiri District and two others passed in W.P.No.30563 of 2016, wherein this Court has also held that the application by a minor within 3 years after becoming a major, would be maintainable, particularly, when the mother had made an application within a period of 3 years from the date of death of the Government employee."

9. The aforesaid extract is self-explanatory. Since the petitioner was a minor at the time of the death of his mother, he could not have made an application within three years therefrom. However, he has also said to have given a representation on 22.07.2021, which is immediately after he has become a major. By applying the principles laid down through several decisions of this Court, the impugned order, holding that the petitioner did not possess 18 years of age, as on the date of his father's application, cannot be sustained.



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10. This apart, G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, had prescribed certain guidelines for appointment on compassionate appointment. As per such guidelines, the minimum age for submitting an application, seeking for compassionate appointment, is 18 years. Subsequently, the Government in G.O.Ms.No.33 Labour Welfare and Skill Development (Q1) Department dated 08.03.2023, has modified the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules 2023. As per Rule 6(2) of G.O.Ms.No.33 Labour Welfare and Skill Development (Q1) Department dated 08.03.2023, the minimum age limit for the applicant on the date of application for appointment has been relaxed. In other words, there is no minimum age limit for making an application, seeking for compassionate appointment in view of the Tamil Nadu Civil Services Appointment on Compassionate Grounds Rules. Now that the new Rules have also been introduced, foregoing the minimum age limit for an applicant, and the petitioner has also completed 18 years of age, there cannot be any impediment for the respondent to consider the petitioner's candidature for compassionate appointment.



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11. Accordingly, the impugned order dated 03.03.2023 passed by the respondent, is hereby quashed. Consequently, there shall be a direction to the respondent herein, to pass appropriate orders forthwith, granting appointment to the petitioner to any suitable post, within a period of three (3) months from the date of receipt of a copy of this order.

12. With the above direction, the Writ Petition stands allowed. No costs.

20.12.2023

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes

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Issue on 2/2/24

To

The Superintending Engineer,
CEDC/South TANGEDCO/TNEB,
K.K. Nagar, Chennai – 600 078.



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M.S.RAMESH,J.

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