



W.A.(MD) No.836 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD) No.836 of 2023
and
C.M.P.(MD) No.6745 of 2023**

1.The General Manager
State Express Transport Corporation
Tamilnadu Ltd,
Pallavansalai, Chennai-2

2.The Deputy Manager (O&A)
State Express Transport Corporation
Tamilnadu Ltd,
Pallavansalai, Chennai-2

... Appellants

-vs-

M.Harikrishnan

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 04.10.2016, passed in W.P.(MD) No.18934 of 2016, on the file of this Court.

For Appellants : Mr.K.Sathiya Singh

For Respondent : Mr.G.Thalaimutharasu



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J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Aggrieved by the order of the Writ Court directing the appellant – Transport Corporation to consider the application of the respondent / writ petitioner dated 05.10.2015 for compassionate appointment and provide appointment on compassionate grounds, the Transport Corporation has come up with this writ appeal.

2. Heard Mr.K.Sathiya Singh, learned counsel appearing for the appellant – Transport Corporation and Mr.G.Thalaimutharasu, learned counsel appearing for the respondent.

3. Mr.K.Sathiya Singh, learned counsel appearing for the appellant – Transport Corporation, would vehemently contend that the Writ Court has erred in granting a positive direction to provide employment on compassionate grounds overlooking the fact that there has been a considerable delay on the part of the respondent in seeking compassionate appointment. He would further add that compassionate appointment is intended only to provide immediate relief to the family, which faces untimely death of the sole breadwinner and it is not a right.



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4. The application for compassionate appointment in this case was made on 05.10.2015 and the same was rejected on 31.12.2015, on the ground that it is beyond three years from the date of the death of the employee. Admittedly, the respondent was a minor, when his father died. Therefore, he was incapacitated from applying. Since the respondent's father died in the year 2009, application for compassionate appointment came to be filed in the year 2015 and it was rejected on 31.12.2015, we have to be guided by the law relating to the compassionate appointments as it stood at that point of time and not by the subsequent developments, including G.O.(Ms) No. 18, Labour and Employment (Q1) Department, dated 23.01.2020, which has been passed by the State Government codifying the law relating to compassionate appointments.

5. The Writ Court relied upon the Judgment of the Division Bench of this Court, dated 16.12.2015, passed in W.A.(MD) No.1400 of 2011, wherein it has been held that three years limitation period, at that point of time, cannot be applied in strait-jacket formula and each and every case have to be considered on its own facts. The Writ Court had only followed the dictum of the Division Bench and concluded that the respondent had made application for compassionate appointment within a reasonable time and since



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he had suffered disqualification at the time when his father died, he cannot be nonsuited on the ground of delay.

6. We find that the order of the Writ Court takes into account the law as it stood on 04.10.2016, when the Writ Court allowed the writ petition. This writ appeal has been filed very belatedly by the Transport Corporation. We do not think that it will be proper for us to interfere with the discretion exercised by the Writ Court based on the subsequent codification of the law relating to the compassionate appointments by way of a Government Order, which will be the essentially perspective. Hence, we do not see any merit in this writ appeal and the same is, therefore, dismissed. The appellant – Transport Corporation shall implement the order of the Writ Court, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No
Index : Yes / No
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