



WRIT APPEAL(MD)No.608 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	11.07.2023
Date of Judgment	18.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

WRIT APPEAL(MD)No.608 of 2023

R.Jeevadurai : Writ Appellant/ Writ Petitioner
Vs.

The District Collector,
The District Collector Office,
Trichirapali District,
Trichy. : Respondent/Respondent

Prayer:

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 07.03.2022 made in W.P.(MD)No.20657 of 2021.

For Appellant : Mr.A.Sivaji
For Respondent : Mr.J.Ashok
Additional Government Pleader



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J U D G M E N T

(Judgment of the Court was made by **D.BHARATHA CHAKRAVARTHY, J**)

This Writ Appeal is directed against the order of the learned Single Judge of this Court, dated 07.03.2022 made in W.P.(MD)No.20657 of 2021, in and by which the writ petition filed by the appellant was dismissed. The prayer was to quash the order dated 27.10.2020 and consequently to appoint the appellant on compassionate basis in a suitable post. By the order dated 27.10.2020, the request of the petitioner for grant of compassionate appointment upon the death of his mother while in service on 12.01.2014 is rejected on the ground that the petitioner was only 13 years old at the time of death and that within 3 years he did not even attain majority and that the application made after expiry of three years cannot be considered.

2. Heard Mr.A.Sivaji, the learned counsel appearing for the petitioner and Mr.J.Ashok, the learned Additional Government Pleader appearing for the respondents.

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3. Mr.Sivaji, the learned counsel would submit that this a very deserving case in which the appellant's father S.Ramaraj died on 15.06.2005. Only his mother who was working as Revenue Inspector was taking care of him. Suddenly, she met with an accident and died while in service on 12.01.2014. Immediately thereof, an application was made for grant of compassionate appointment as on 08.05.2015, within the period of three years, but the same was rejected by order dated 08.06.2015. The further representation made was also rejected on 23.02.2016. Therefore, after attaining majority, fresh application was made on 24.08.2020, which was rejected by the impugned order. He would further submit that the rule relating to three years cannot be applied in the instant case since application is made within three years. He would rely upon the judgment of this Court in ***T.Meer Ismail Ali -Vs- Tamilnadu Electricity Board*** reported in ***2004 (3) CTC 120*** in support of his contention and would submit that the said order was confirmed by the Division Bench of this Court and thereafter, by the Hon'ble Supreme Court of India. As a matter of fact, the ratio was followed by a Division Bench of this Court in ***V.Ragul Kannan -Vs- Principal District Judge*** reported in ***2018***



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Supreme (Mad) 3743. Therefore, he would urge not to follow the ration of the Full Bench decision of this Court and to grant relief, the appellant as it is an extra-ordinary case, where the appellant having lost both his parents and is in the custody of his grandmother who is a daily wage labourer. He would also submit that the entire case of the appellant has to be considered under the new rules and persons can apply upto the age of 40 years and in the appellant's case, he was 13 years at the time of death and immediately after attainment of majority, a fresh application is made. He would further submit that even the death and other benefits are yet to be paid in this case.

4. Opposing the above submissions, the learned Additional Government Pleader would submit that the appellant was only 13 years of age as on date of death of his mother. It is now well settled that if only application is made within 3 years, appointment can be granted on compassionate basis and a minor can file application only after attaining majority and such attainment of majority has to be within three years from the date of death of the employee.



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5. We have considered the rival submissions made on either side and perused the material records of the case.

6. It cannot be said that that the Judgment in ***T. Meer Ismail Ali (cited supra)*** is confirmed or the ratio is laid down by the Hon'ble Supreme Court of India. In that view of the matter, when there were different views regarding the eligibility of a minor to apply for compassionate appointment after attainment of majority, the issue was referred to a Full Bench and the Full Bench in ***Nandini Devi -Vs- Secretary to Government*** [W.P.(MD).No.7016 of 2011] has now authoritatively ruled that minors attaining majority after three years cannot be granted appointment as per the scheme. As a matter of fact, subsequently a Division Bench, in which one of us [**THE HON'BLE MR. JUSTICE S.S.SUNDAR**], is a party, had also followed the said ruling in ***The Director of School Education & Ors -Vs- G. Mariraja (MANU/TN/6287/2022)***. Thus, the appellant's case cannot succeed.



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7. The further argument that the new rules have come into force and therefore, the matter has to be considered only as per the same also does not lead the appellant anywhere. Even as per Rule 5 of the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, the three years period is prescribed. The prescription of forty years as the upper age limit in Rule 6 does not have any bearing on the requirement to file the application within three years. Thus, the ratio of the Full Bench would remain the same even if the case is considered with reference to the new rules.

8. Be that as it may, upon enquiry, the learned Additional Government Pleader on instructions would submit that as a matter of fact, the death and other benefits due are yet to be paid in this case and therefore, the respondents are liable to make the payments of all such sums due within a period of three months from the date of receipt of a copy of this order.



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9. In the result, this Writ Appeal is disposed of:

(i) By confirming the order dated 07.03.2022 made in
W.P.(MD) No.20657 of 2021;

(ii) By directing the respondents to disburse the death or
other monetary benefits due to the appellant within a period of
three months from the date of receipt of a copy of this order;

(iii) There shall be no orders as to costs.

(S.S.S.R.,J.) & (D.B.C.,J)

18.07.2023

NCC : Yes / No

Index: Yes/No

Index: Yes/No

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To:

The District Collector,
The District Collector Office,
Trichirapali District,
Trichy.



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S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

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Pre-Delivery Judgement made in
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18.07.2023