



W.P.(MD).No.12442 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.07.2023

PRONOUNCED ON : 25.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.12442 of 2022

R.Prabu Devan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
Thanjavur District.

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

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to consider the petitioner's application for compassionate appointment in any post in Group-C or Group-D cadre service in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Karaikudi Region.



W.P.(MD).No.12442 of 2022

For Petitioner : Mr.Raja.Karthikeyan
For Respondents : Mr.K.Jegadeesh Balan
Standing Counsel

ORDER

The present Writ Petition has been filed to direct the first respondent to consider the petitioner's application for compassionate appointment in any post in Group-C or Group-D cadre service in the Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Karaikudi Region.

2.The petitioner's father N.Ravi was serving as a Senior Grade Driver with the respondent Corporation. While he was in service, unexpectedly, he died on 15.03.2005. On 08.06.2015, the petitioner's mother gave a representation to the second respondent requesting an appointment to the petitioner on compassionate ground. On 28.01.2020, the petitioner further gave a representation in person to the second respondent. Since the same was not considered, the petitioner's mother made another representation to the second respondent on 23.11.2021 and also she gave a representation to the Chief Minister of Tamil Nadu on 26.11.2021. Despite all these



W.P.(MD).No.12442 of 2022

representations, the respondents did not bother to consider the same.

Hence, this Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner relied upon an order passed by this Court in W.P(MD)No.2280 of 2012 etc. cases, dated 14.12.2017 (M.Tamilarasan Vs. The Chairman and Managing Director and others), wherein this Court has held that "it is a settled proposition that, impossibility cannot be directed to be followed. If it is an admitted fact that at the time of the death of an employee, the legal heir ie., the son and the daughter are minors, one cannot expect such minors can make applications for compassionate appointment. Assuming that, those minors are making applications for compassionate appointment, the same cannot be considered by the employer as the minors cannot be appointed. Therefore, the natural corollary would be, to wait till the minor attains majority and if they otherwise qualified, including educational qualifications, certainly they would be entitled to compassionate appointment."

4.Quoting the said order passed by this Court, the learned counsel appearing for the petitioner submitted that this is also a case, in which the petitioner's father died when he was a minor and on



W.P.(MD).No.12442 of 2022

attaining the age of majority, the petitioner promptly made an application seeking compassionate appointment and the respondents, without considering the same, are forcing the petitioner to wait endlessly and hence, the learned counsel appearing for the petitioner pressed for allowing the Writ Petition.

5.Per contra, the learned standing counsel appearing for the respondents contended that in the light of G.O.(MS)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, since the application seeking compassionate appointment was made by the petitioner beyond the period of three years from the date of death of the employee, the same cannot be considered positively.

6.Heard Mr.Raja Karthikeyan, learned counsel appearing for the petitioner and Mr.K.Jegadeesh Balan, learned standing counsel appearing for the respondents and perused the materials available on record.

7.It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass



W.P.(MD).No.12442 of 2022

appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of India and direct them to consider the same within a stipulated time.

8.In the light of the above, the first respondent is directed to consider the petitioner's application seeking for compassionate appointment, dated 08.06.2015, in the light of the order passed by this Court in W.P(MD)No.2280 of 2012, dated 14.12.2017 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

25.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes
ps

5/7



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W.P.(MD).No.12442 of 2022

To

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W.P.(MD).No.12442 of 2022

L.VICTORIA GOWRI, J.

ps

Pre-Delivery Order made in
W.P.(MD)No.12442 of 2022

25.07.2023