



W.P.(MD).No.14720 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.14720 of 2022

S.Vijaya Raghavan

... Petitioner

Vs.

1.The Principal Director,
Office of the Principal Department,
Department of Highways, Chennai.

2.The Executive Engineer,
Public Works Department,
(Water Resource),
Manithutharu Basin Division,
Devakottai.

3.The Divisional Engineer,
Department of Highways,
Project and Maintenance,
Sivagangai.

4.The Superintendent Engineer,
Department of Highways,
Project and Maintenance,
Alagarkovil Road, Madurai,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings bearing No.10583/nir1/(2)2019,



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dated 15.07.2021 issued by the first respondent and quash the same subsequently direct the first respondent to appoint the petitioner on the basis of compassionate ground in any one of the post in the respondent department.

For Petitioner : Mr.M.Gnanagurunathan

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings bearing No. 10583/nir1/(2)2019, dated 15.07.2021, issued by the first respondent and quash the same subsequently direct the first respondent to appoint the petitioner on the basis of compassionate ground in any one of the post in the respondent department.

2. The petitioner's father worked as Junior Engineer in the second respondent Department and while on duty on 16.09.2000, he passed away. The petitioner's father was survived by the petitioner alone. The petitioner is the adopted son of the deceased employee, Sankaranarayanan. Even before the death of the petitioner's father, the petitioner's mother had expired on



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09.03.1997. On 01.02.2015, the petitioner made an application to the Chief Minister Cell as well as to the second respondent seeking appointment on compassionate ground. That application was not considered and hence, the petitioner filed W.P(MD)No.3377 of 2019 seeking indulgence of this Court and that was disposed of. Even thereafter, the third respondent issued a letter, dated 11.03.2019 and 16.04.2019, seeking certain particulars.

3. Despite the petitioner producing all the required documents before the third respondent, the petitioner's case was not considered for compassionate appointment. Thereafter on 15.07.2021, the petitioner's application, dated 01.02.2015 seeking compassionate appointment was rejected, for the reason that the petitioner did not make an application within three years from the death of the Government employee. Challenging the same, the petitioner filed W.P(MD)No.2005 of 2021. However, this Court was inclined to quash the said impugned order, dated 09.10.2019 consequently directing the first respondent to re-consider the petitioner's application for compassionate appointment, dated 01.02.2015 in the light of G.O(Ms)No.18 of the Labour and Employment (Q1) Department, dated 23.01.2020. The respondents cautiously and diligently considered the application in the light of G.O(Ms)No.18 of the Labour and



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Employment Department, dated 23.01.2020 and passed the impugned order, dated 15.07.2021. Challenging the same, this writ petition came to be filed.

4. Heard the learned Counsel for the petitioner and the learned Special Government Pleader for the respondents and carefully perused the materials available on record.

5. The learned Counsel for the petitioner vehemently contended that this case should be considered as an exceptional case for the only reason that the petitioner was the only surviving legal heir and he was minor of age 7 years at the time of death of the employee. Considering in all aspects, it is quite understandable that it is not possible for a minor of 7 years old child, who is orphan without parents to make an application within three years from the date of death of his father. The learned Counsel for the petitioner requested the indulgence of this Court to consider this as a special case and allow this writ petition, considering the fact that the application, dated 01.02.2015, seeking compassionate appointment by the petitioner was made after him attaining the age of majority and he pressed for allowing this writ petition.



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6. Per contra, the learned Special Government Pleader for the respondents vehemently contended that even considering the petitioner's argument positively, he did not make an application seeking compassionate appointment immediately on attaining his age of majority in the year 2011. Even after attaining the age of majority in the year 2011, after a passage of four years, only on 01.02.2015, application came to be preferred by the petitioner and on that basis, in the light of the mandate of G.O(Ms)No.18 of the Labour and Employment (Q1) Department, dated 23.01.2020 which has no provision to consider an application seeking compassionate appointment made beyond a period of three years from the date of death of the employee, the petitioner's application came to be rejected and hence, it need not be interfered.

7. This Court is in line with the learned Special Government Pleader argument and is not inclined to interfere with the impugned order.

8. In the result, this writ petition stands dismissed. There shall be no order as to costs.

11.07.2023



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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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L.VICTORIA GOWRI, J.

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