



W.P(MD)No.16120 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2023

CORAM

THE HONOURABLE MR.JUSTICE L.VICTORIA GOWRI

W.P(MD).No.16120 of 2022

Elango

Vs.

...Petitioner

1. The Divisional Engineer (Highways),
Trichy,
Trichy District.

2.The Assistant Divisional Engineer (Highways),
Construction and Maintenance,
Manaparai Sub Division,
Manaparai,
Trichy District.

3.The Assistant Engineer (Highways),
Marungapuri,
Trichy District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation, dated 07.04.2022 for his compassionate appointment of his father Palanisamy's death within a period



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of stipulated time limit as fixed by this Court.

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For Petitioner : Mr.N.A.Palaniyandi
For Respondents : Mr.N. Muthuvijayan
Special Government Pleader

ORDER

This Writ Petition has been filed for issuing direction to the 1st respondent to consider the petitioner's representation, dated 07.04.2022 for his compassionate appointment of his father Palanisamy's death within the time stipulated by this Court.

2. The petitioner's father one Palanisamy joined as Road Worker on 30.08.1988 in the third respondent's office. While in service, he passed away on 21.09.2009. The petitioner's mother made a representation on 03.05.2010 to the Special Cell for the Hon'ble Chief Minister of Tamil Nadu seeking compassionate appointment. That is well within three years period from the date of death of employee. However, the third respondent called the petitioner's mother instructing to make fresh application. Based on such instruction, the petitioner's mother gave a fresh application on 14.07.2011, for which a reply has been received from the 3rd respondent, vide proceeding



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dated 15.07.2011 wherein it was informed that the petitioner's mother was required to submit certain documents. After submission of said documents, the petitioner's mother eagerly awaited proper response from the respondents. However, there was no response from the respondents. In the meanwhile, the petitioner, who had been minor at the time of death of his father, attained majority on 25.06.2015. Hence, he made an application seeking compassionate appointment for him. However, the same was not considered and hence, this petition came to be filed.

3. Mr.N.Muthu Vijayan, learned Special Government Pleader has filed counter affidavit as well and he submitted that the application for compassionate appointment was made by the petitioner's mother on 03.05.2010 at the first instance and thereafter, fresh application was subsequently submitted directly before the third respondent by the petitioner's mother on 14.07.2011, which was considered. However, the petitioner's mother was required by the respondents' Department to produce certain documents, on the basis of which the petitioner's mother produced documents and on those documents the respondents found out that the Transfer Certificate submitted by the petitioner's mother was not genuine and was a



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forged one. Purely on humanitarian grounds, the 3rd respondent did not initiate any action against the petitioner's mother for submitting the said forged document. In addition to Transfer Certificate, in the Legal heirs certificate issued, dated 29.01.2010 the petitioner's name was stated as Asaithambai, whereas, in the consolidated certificate, dated 02.08.2018 the petitioner's name is mentioned as Elango, for which, no proper explanation was given by the petitioner's mother. In such circumstances, the application seeking compassionate appointment for the petitioner's mother was not considered and the same was kept in abeyance.

4. However, this Court is inclined to rely upon the G.O.S.No.81, dated 23.01.2020, which mandates that an alternative application seeking compassionate appointment could be made only when the person who had made an application seeking compassionate appointment at the first instance had died. In this case the petitioner's mother is very much alive and her application seeking compassionate appointment was made at the first instance and that was kept in abeyance only because of the reason that the respondents had identified the certificates especially the Transfer Certificate was a forged one and the Legal Certificate and consolidated certificate are contradictory one.



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5. So, in view of the same, this Court is inclined to observe that the petitioner is not entitled to make 2nd application seeking compassionate appointment in the light of G.O.Ms.No.18, dated 23.01.2020 when the applicant who made an application is still alive,

6. With the above observation, this Writ Petition is dismissed.

No costs.

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Index : Yes / No
Internet : Yes/ No
trp



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L.VICTORIA GOWRI, J.,

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