



W.P.(MD).No.19052 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.19052 of 2022

S.Vijaya Raghavan

... Petitioner

Vs.

1.The Director General of Police,
Dr.Radha Krishnan Salai,
Mylappore,
Chennai-600 004.

2.The Deputy Inspector General of Police,
(Technical Services),
Police Tele Communication Branch,
Chennai-600 004.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in the proceedings of the 1st respondent made in Na.Ka.968501/ஈ.ஏ.1/1 dated 15.06.2021 to quash the same and consequently direct the 1st respondent to grant compassionate appointment to the petitioner herein.

For Petitioner : Mr.K.Shanmuga Raja

For Respondents : Mr.P.Thambi Durai
Government Advocate



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ORDER

The present writ petition has been filed to to call for the records in the proceedings of the 1st respondent made in Na.Ka.968501/ஈ.ஏ.1/1 dated 15.06.2021 to quash the same and consequently direct the 1st respondent to grant compassionate appointment to the petitioner.

2. The petitioner's father worked as an Inspector of Police in the Telecommunication Branch, Virudhunagar. While in service, he passed away on 26.05.2008. He was survived by his wife, 2 daughters and the petitioner. Already, the two daughters are married. On 15.05.2011, the petitioner's mother made an application seeking compassionate appointment for the petitioner. However, on that day, the petitioner had completed the age of 17 years and he was a minor. After attaining majority on 02.12.2012, the petitioner sought for appointment several times by making several representations on compassionate ground and the last of which was made on 24.11.2015 and on 11.12.2019. However, without considering the representations made by the petitioner's mother and the petitioner, the impugned order rejecting the petitioner's application seeking compassionate appointment came to be passed on



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15.06.2021 along with a consequential order, dated 17.06.2021. Challenging the same, this writ petition came to be passed.

3. The learned Government Advocate relying upon G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020 vehemently submitted that the petitioner is not entitled to seek employment for the reason that at the time of making an application seeking compassionate appointment by his mother on 15.05.2011, the petitioner was only 17 years old and he was a minor. Hence, his application seeking compassionate appointment was rightly rejected and pressed for dismissal of the writ petition.

4. A perusal of the records would reveal that the petitioner's mother had made her application seeking compassionate appointment on 15.05.2011 and by that time, the petitioner was 17 years and 5 months old. He was only short of 7 months to attain the age of majority.

5. This Court in ***W.P(MD)No.11808 of 2020 (S.Subesh Vs. The Chairman and Managing Director & Others)*** vide order, dated 16.09.2020



while dealing with a similar case, has passed favourable orders to the petitioner.

The relevant portion of which is extracted as follows:

“23. Here in the case in hand, the application was filed within three years period, of course, strictly speaking, on the date of application, the petitioner was still short of 64 days to attain the majority. This kind of cases, in the considered opinion of this Court, can be fit under the category of application not made belatedly, but within the time, however, some nominal shortage of few days to attain the majority.

25. In this context, the relevant observation made by the Hon-ble Full Bench in the aforesaid decision can usefully be referred to hereunder:

“5. A person in penury or distress will not take long to survive the vagaries of penury for seeking information of such benefits. The argument that there are some exceptional cases where people hardly get information is a far-fetched argument raised to dilute a reasonable time that has been fixed under the rules and the scheme and, in our opinion, caters sufficiently to allow a dependent to stake his/her claim for compassionate appointment. If a dependent who sleeps over and does not make any effort by the reason of his own incapacity, which also includes the dependent-claimant not having attained the age of majority, such lapse of time on the part of the claimant will definitely lead to dilute the immediacy of the requirement. The time spent to attain majority cannot be a ground to establish



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the existence of indigence even after attaining the age of majority. This, in our opinion, has also been taken due care of by providing a period of three years for moving an application for compassionate appointment which means that if the dependent is only about 15 years of age, he/she can apply immediately after attaining the age of majority.”

26. Therefore, it was opined by the Full Bench that, the period of three years for moving application for compassionate appointment means that, if the dependent is only 15 years of age, he/she can apply immediately after attaining the age of majority.”

6. In the aforesaid case, this Court has held that even if the applicant is only 15 years on the date of making an application seeking compassionate appointment, he/she can immediately make an application on attaining the age of majority and that application has to be considered for providing the applicant with an employment. In this case, the application is promptly made by the petitioner's mother within a period of 3 years from the date of death of the employee and the petitioner was short of only 7 months to attain the age of majority. This kind of cases, in the considered opinion of this Court can be fit under the category of application not made belatedly, but within time. However, some nominal shortage of few months to attain majority can be



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objectively considered by the respondents for the purpose of providing employment to a family member of the deceased employee under penury.

7. In view of the facts and circumstances of this case, the impugned order is quashed and the matter is remitted back to the respondents with a direction to consider the petitioner's application in the light of the order of this Court in ***W.P(MD)No.11808 of 2020 (S.Subesh Vs. The Chairman and Managing Director & Others)*** and pass appropriate orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above said observations, this Writ Petition stands allowed.

No costs.

14.08.2023

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

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L.VICTORIA GOWRI, J.

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