



W.P.(MD)No.15162 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.15162 of 2018

O.Packialakshmi

... Petitioner

Vs.

1.The Employees' State Insurance Corporation,
(To Be Represented by the Deputy Director),
ESI Corporation, Sub - Regional Office,
2nd West Street, K.K.Nagar,
Madurai - 625020.

2.The Regional Director.
ESI Corporation,
Regional Office,
143, Sterling Road,
Chennai - 600 034.

3.The Director General,
ESI Corporation HQrs. Office,
C.I.G.Marg, New Delhi -110 002.

4.J.R.Malarvizhi

...Respondents



W.P.(MD)No.15162 of 2018

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the order dated 30.09.2016 in O.A.No. 310/200253/2015 passed by the Central Administrative Tribunal, Madras Bench and quash the same as arbitrary and unreasonable and direct the first, second and third respondents to give compassionate appointment to the Petitioner as MTS/Peon with effect from 13.06.2002.

For Petitioner : Mr.C.Arockia Selvi
For R3 : Mr.M.Lingadurai
Special Government Pleader
For R1 & R2 : No Appearance

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order of the Central Administrative Tribunal dated 30.09.2016 in O.A.No.310/200253/2015 is sought to be quashed in the present writ proceedings.

2.The husband of the writ petitioner, R.Omathurai was working as a Peon in the Branch Office, ESI Corporation, Theni and died on 21.03.2000 while he was in service. Since the family lost its bread winner, the petitioner submitted an application seeking appointment on compassionate ground. However, there

2/5



W.P.(MD)No.15162 of 2018

was a delay in considering the application and finally the petitioner was appointed on compassionate ground on 19.11.2013.

3.The petitioner is working as Multi Task Staff as of now in the ESI Corporation. While so, the petitioner filed the original application before the Central Administrative Tribunal seeking the relief of retrospective appointment as Peon/Multi Task Staff with effect from 13.06.2002, the date on which the fourth respondent was appointed on compassionate ground. The Central Administrative Tribunal adjudicated the issue and formed an opinion that there was an enormous delay in considering the application submitted by the petitioner for providing appointment on compassionate ground, however, the said delay would not confer any right to grant retrospective appointment on compassionate ground. The Central Administrative Tribunal also observed that the Department hereinafter should not commit any mistake or any type of carelessness while rejecting the application for compassionate appointment.

4.We are of the considered opinion that the compassionate appointment is a concession and not an absolute right. In the present case, the petitioner was



W.P.(MD)No.15162 of 2018

appointed on compassionate ground and working for the past about 10 years.

However, there is no provision to appoint the person on compassionate ground with retrospective effect. Such retrospective appointment is unknown to the scheme.

5.That being the factum, we do not find any infirmity in the order impugned in the writ petition. Accordingly, this writ petition stands dismissed and the order impugned in this writ petition is confirmed. No costs.

(S.M.S., J.) & (V.L.N., J.)
01.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

The Director General,
ESI Corporation HQrs. Office,
C.I.G.Marg, New Delhi -110 002.



WEB COPY



W.P.(MD)No.15162 of 2018

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

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W.P.(MD)No.15162 of 2018

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