



W.P.(MD).No.21953 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.21953 of 2021

and

W.M.P(MD)No.18525 of 2021

S.Karthika

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Transport (TBC) Department,
Secretariat,
Chennai – 600 009.

2.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Labour and Employment Department,
Secretariat,
Chennai – 600 009.

3.The Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli District – 627 011.

4.The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli – 627 003.

... Respondents



W.P.(MD).No.21953 of 2021

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Letter No.4102/Neer 3/Thaa Poka/Tili/2010 from the fourth respondent and quash the same and direct the respondents to give compassionate appointment to the petitioner based on G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993 and G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2020.

For Petitioner	: Mr.P.Senthu Pandian
For RR 1 & 2	: Mr.D.S.Neduncheziyan Government Advocate
For RR 3 & 4	: Mr.K.Ramaiah Standing Counsel

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 24.09.2020 passed by the fourth respondent and direct the respondents to give compassionate appointment to the petitioner based on G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993 and G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2020.



W.P.(MD).No.21953 of 2021

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2.Heard Mr.P.Senthur Pandian, learned counsel appearing for the petitioner, Mr.D.S.Neduncheziyan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.K.Ramaiah, learned counsel appearing for the respondents 3 and 4 and perused the materials available on record.

3.The petitioner's father R.Sivasubramanian was working as a Special Grade Assistant in Papanasam Branch of the Tamil Nadu State Transport Corporation, Tirunelveli Limited. While he was in service, he passed away on 03.08.2013. He was survived by his wife, the petitioner/daughter and his son. On 28.03.2016, the petitioner made an application seeking compassionate appointment before the fourth respondent in person. Even after expiry of five long years, the petitioner's representation was not considered. Hence, the petitioner made a representation to the Chief Minister's Special Cell on 14.03.2020, after which on 24.09.2020, the impugned order came to be passed rejecting the petitioner's application seeking compassionate appointment for the reason that the petitioner's brother is already employed as an Assistant in Treasury Head Office, Secretariat at Chennai. Assailing the same, this Writ Petition came to be filed.



W.P.(MD).No.21953 of 2021

4.This Court in **W.P(MD)No.9479 of 2018, dated 05.08.2021 (A.Lalith Kumar Vs. The School Education Department and others)** relying upon G.O.Ms.No.155, Labour and Department, dated 16.07.1996 dealt with the similar case and has passed favourable order and the relevant portion of which is extracted as follows:-

"5.The learned Government Pleader appearing for the second respondent has filed a counter affidavit. In the said counter, it is stated that the aforesaid deceased father was working as Record Clerk in the District Central Labour, Dindugul under the control of the third respondent and he died while he was in service on 23.07.2015. As per G.O.Ms. No. 155, Labour and Department dated 16.07.1993 and Government Letter 31, Labour and Employment Department dated 25.02.1994 wherein it is stated as follows:

"Even if one member of the family other than the deceased Government servant was employed over before the death of the Government servant and was living separately without extending any help to the family then, the case of other eligible person may be considered"."



W.P.(MD).No.21953 of 2021

WEB COPY

5.This Court is fully in consonance and agreement with the abovesaid observation made in the aforesaid order and even in this case, the brother of the petitioner is not supporting her family and the petitioner's mother is also residing with her.

6.In view of the same, this Court is inclined to observe that even if one another member of the family other than the deceased Government servant is employed in some other Government job, that aspect would not dis-entitle the petitioner being appointed on compassionate ground and hence, the impugned order, dated 24.09.2020 passed by the fourth respondent is liable to be quashed.

7.Accordingly, the impugned order, dated 24.09.2020 passed by the fourth respondent is hereby quashed and the respondents are directed to give compassionate appointment to the petitioner based on G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993 and G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2020, within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.21953 of 2021

8. With the abovesaid direction, this Writ Petition is allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

28.07.2023

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



W.P.(MD).No.21953 of 2021

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To

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W.P.(MD).No.21953 of 2021

L.VICTORIA GOWRI, J.

ps

W.P.(MD)No.21953 of 2021

28.07.2023