



W.P.No.273 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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T.Divya

... Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
Rep by its Managing Director
37, Mettupalayam Road
Coimbatore-43.

2.The General Manager
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road
Coimbatore-43.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the record pertaining to the order in Pa.No.L3/WP14596/2021/Thu.Mo(Tho)/TNSTC(Ko)/2021, dated 21.09.2021 and order in Pa.No.L3/WP14596/2021/Thu.Mo(Tho)/TNSTC(Ko)/2021 11.11.2021 passed by the 2nd respondent, quash the same and consequently direct the respondents to provide the petitioner forthwith appointment on



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compassionate ground in any suitable post based on her educational qualification with effect from the date of her first application dated 21.12.2020 within a specified time as may be fixed by this Honourable Court

For Petitioner : M/s.H.Nandhini
for Mr.V.Ajoy Khose

For Respondents : Mr.A.Sundara Vadhanan

ORDER

This writ petition is filed challenging the impugned orders dated 21.09.2021 and 11.11.2021 in and by which the respondents disposed of the representation of the petitioner by stating that the petitioner had not applied for compassionate appointment.

2. The case of the petitioner is that her father namely K.Thiyagaraj who was working in the respondent corporation died in harness while he was in service on 11.08.2020. Immediately thereof, an application was made on 21.12.2020 for providing compassionate appointment to the petitioner. There was no positive response and therefore, the petitioner made further representations dated 24.12.2020



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and also on 04.01.2021 and since there was no positive response, the petitioner's mother approached this Court for a mandamus directing the respondents to provide compassionate appointment to her daughter T.Divya/petitioner herein, in any suitable post based on her educational qualification. By a judgment dated 15.07.2021, this Court passed the following orders:-

“6. Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances of the case and without going into the merits of the claim made by the petitioner, directs the respondent to consider and dispose of the petitioner's representations dated 24.12.2020 and 04.01.2021 respectively, on merits and in accordance with law and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner herein”

3. Thereafter, the present orders are passed. The petitioner has not been provided with compassionate appointment. The only reason which was stated for rejection is that petitioner had never made any application as stated by her.



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4. Heard M/s.H.Nandhini, learned counsel appearing for the petitioner and Mr.A.Sundara Vadhanan, the learned counsel appearing for the respondents.

5. The learned counsel for the petitioner submitted that petitioner has duly made an application. Though the copy and the proof is not available with the petitioner, it can be seen that all the subsequent representations given by the petitioner's mother are with due acknowledgement. The said representations clearly prayed for providing of compassionate appointment to the petitioner. Only because the respondents did not settle the retirement benefits in time and the petitioner's mother had to file separate writ petition and contempt petition in respect of thereof, the respondents are taking such an extreme view in the matter. Even when writ petition was filed praying for compassionate appointment, the respondent counsel never took any objection that no application has been filed. That being a situation, the impugned orders have to be quashed.



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6. Per contra, Mr.A.Sundara Vadhanan, the learned counsel for the respondents would submit that for the purpose of compassionate appointment, due application in a prescribed format has to be submitted. He also submit that no application is on the record of the respondents. Until a period of three years from the date of death i.e.,11.08.2020, no application whatsoever has been submitted. In that view of the matter, the petitioner will not be entitled for compassionate appointment. In any event, he would submit that if such subsequent application has to be taken, the compassionate appointment is being provided in the respondent organization only based on the application seniority and her case will be taken up only as per the revised seniority.

7. I have considered the rival submissions of the learned counsels on either side and perused the materials available on record.

8. There is no dispute about the fact that petitioner's father was a regular employee under the respondent management and he died while he was in service on 11.08.2020. As on the date, the petitioner was aged 24



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years and she possessed educational qualification of B.Com. As such, she possess the educational qualification to seek appointment under the scheme of compassionate appointment in any suitable post.

9. The case of the petitioner is that petitioner's mother in her representation dated 24.12.2020 itself has categorically stated that her family is in extreme penury, unless otherwise the compassionate appointment is provided to her daughter, it is very difficult for the family to survive. No doubt, that the petitioner neither possess a copy of the original application dated 21.12.2020 said to have been filed by her nor any acknowledgement in respect of thereof, it can be seen that the subsequent representations which are on record which the respondent admits receiving are also well within the time of three years.

10. As a matter of fact, when the writ petition was filed to provide for compassionate appointment and when the direction was issued to consider the representation, no such stand was taken that the application was not filed. Therefore, the reason given in the impugned orders are extremely hyper technical in nature. If the petitioner's family is in penury and satisfies all other requirements as per the scheme, the



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petitioner possessing the educational qualification, the application and the representation being made within a period three years, if not the original application at least the representation dated 24.12.2020 which was directed to be disposed of by the High Court can be treated as an application and all other particulars in a prescribed format could have been called for from the petitioner and the case could have been considered on merits. It can be seen that the scheme itself starts with the title 'compassionate' and the respondents cannot approach it in such a hyper technical manner. Therefore, the respondent ought to have at least called upon the petitioner who has been knocking the doors well within the time of three years to furnish any other application in a prescribed format. In that view of the matter, the writ petition is disposed of on the following terms:-

1) the impugned orders dated 21.09.2021 and 11.11.2021 shall stand quashed;

2) the representation of the petitioner's mother dated 24.12.2020 shall be treated as the original application made for the purpose of compassionate appointment;

3) If any other format/affidavit or other particulars are necessary, the petitioner shall approach the respondent within a period of three



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weeks from the date of receipt of a copy of this order. Upon which, the respondent shall intimate the requirements to the petitioner and the petitioner, within a period of four weeks there from, shall furnish all other requisites;

4. Upon furnishing of such particulars, the respondents shall consider the case of the petitioner for compassionate appointment treating her application date as 24.12.2020 as per the scheme in accordance with law and grant compassionate appointment if they found that the petitioner is eligible.

5. No costs.

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Index: Yes

Speaking Order: Yes

Neutral Citation: No

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