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W.A.No.3606 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A.No.3606 of 2024 and
C.M.P.No.28227 of 2024

Chennai Metropolitan Water Supply and
Sewerage Board,
Represented by its Managing Director,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

... Appellant

-Vs-

D.Dhayalan
S/o.Late K.Dilli

... Respondent

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.14743 of 2012 dated 15.02.2024 and allow the above writ appeal.

For Appellant	:	Mr.J.Ravindran Additional Advocate General
For Respondents	:	Mr.George Graham for Devadasan & Sagar

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 15.02.2024 in W.P.No.14743 of 2012.



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2. The respondent's father one Dilli worked as Field Worker at the appellant Board and he died in harness on 17.10.1997, when he was working in Kodungaiyur Pumping Station of the appellant Board.

3. Pursuant to the death of his father, the respondent / writ petitioner had given application to seek for compassionate appointment on 21.05.1998 with required documents and a seniority number also has been issued by the appellant Department as Seniority No.616.

4. Subsequently no appointment had been given and no communication had come from the employer and after several years, he came to know that, the appellant Department had appointed persons upto 720 in the seniority list and the compassionate appointment has been cleared by the appellant Department. Therefore, the respondent / writ petitioner had given a representation on 03.01.2011 reiterating his earlier application and requesting the employer to consider his candidature for the purpose of compassionate appointment. However, the same was rejected by order dated 10.09.2011 of the appellant Department. Challenging the same, the above writ petition was filed.



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5. The reason for such rejection dated 10.09.2011 according to the appellant Department is that, even though the application was made on 21.05.1998, already there has been a ban of appointment including the compassionate appointment and that the said ban continued till 2007 and after the ban was lifted, the application one by one was taken up and it was scrutinized for consideration for compassionate appointment, but the thing is that, as per G.O.(Ms)No.1579, Labour and Employment Department dated 21.07.1981, an upper age limit was fixed for compassionate appointment which shall be calculated at the date of the death of the Government employee.

6. Herein the case in hand, when the employee died on 17.10.1997, his son, i.e., respondent / writ petitioner already crossed thirty years seven months, therefore, as per G.O.(Ms)No.1579, Labour and Employment Department dated 21.07.1981, he became ineligible to seek for compassionate appointment.

7. Even though it is a fact that, subsequently by G.O.(Ms)No.9 of the same Department dated 19.01.1998, an upper age limit has been enhanced to thirty five years, on that ground, though the writ petitioner sought for compassionate appointment, however, because of the ban in 2007, no orders could be passed, however, the rejection order since has been passed only on the



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representation given by the writ petitioner in the year 2011, by that time, the respondent / writ petitioner reached the age of 57 years almost closing to the age of superannuation.

8. These circumstances having been considered, the learned Judge has passed an order through the impugned order that, in view of the fact that, he has already reached 57 years, at this juncture, no direction can be given to the employer to consider his candidature for the purpose of appointment on compassionate ground and at the same time, if the employer had rejected the application of the year 1998, because at the time of making the application itself since the respondent / writ petitioner was over aged, i.e., crossed thirty years as per the Government Order i.e., G.O.(Ms)No.1579, which was invogue, that application could have been rejected well in advance, however that has been kept pending till 2011 and only at the fag end of the carrier of the respondent / writ petitioner before reaching the superannuation age since the order of rejection was passed in the year 2011, even the chance of the respondent / writ petitioner to search for alternative employment since has been defeated, the appellant Department, i.e., employer is liable to pay the compensation that is the reason given by the learned Judge, therefore, the learned Judge has quantified the compensation at Rs.1,00,000/- and also the



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learned Judge has stated in the impugned order that, in view of the peculiar circumstances of the facts of the case, this compensation since has been ordered, it cannot be treated as a precedent.

9. The said reasoning given by the learned Judge as well as the conclusion arrived at by the writ Court, in our considered view cannot be found fault with and therefore, this Writ Appeal is liable to be dismissed and hence, it is dismissed. The order passed by the writ Court shall be complied with by the appellant Department within a period of two weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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