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W.P.No.24507 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.24507 of 2024 &
W.M.P.No.26817 and 26818 of 2024

P.Madhavan

... Petitioner

Versus

1. The State of Tamilnadu
Rep. By its Secretary
Department of Highways and Minor Ports
Fort St.George, Chennai – 600 009
2. The Director of Highways,
College Road, Chennai – 600 006
3. The Superintendent Engineer
Highways Department,
Madras Circle, Chennai – 600 032
4. The Divisional Engineer,
Highways Department,
Construction and Maintenance
Perambalur – 621 212
5. The Assistant Divisional Engineer
Highways Department,
Construction and Maintenance,
Veppanthattai, Perambalur

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the



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records relating to the impugned proceedings issued by the 2nd respondent, Director in proceedings no.5904/nir(7)/2023 dated 27.06.2023 and quash the same and further direct the respondents to provide a suitable employment to the petitioner on compassionate grounds by considering the representation of the petitioner dated 07.09.2023.

For Petitioner : Mr.K.M.Arun

For Respondents : Mr.M.Bindran for R1 to R5
Additional Government Pleader

ORDER

This petition is filed for an issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent, Director in proceedings no.5904/nir(7)/2023 dated 27.06.2023 and quash the same and further direct the respondents to provide a suitable employment to the petitioner on compassionate grounds by considering the representation of the petitioner dated 07.09.2023.

2. According to the petitioner, his father died in harness and the petitioner's father had been the sole bread winner of their family and his family wholly dependent on him. At the time of death of petitioner's



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father, the Law prevailing in force was that the application for compassionate appointment should be submitted within three years from the date of death of the employee and the petitioner's application was well within three years from the date of death of his father. However, the application got rejected, as he has not completed the age of majority and that he has submitted the present application on attaining the age of majority. However, the 2nd respondent has mechanically rejected the petitioner's application stating that the petitioner has not satisfied the minimum age requirement in terms of G.O.(MS) No.18 Labour and Employment (Q1) Department dated 23.01.2020 i.e., applicant for compassionate appointment should have completed 18 years of age at the time of submitting application for compassionate ground appointment. Further, the petitioner being eldest son, who has to take care of his mother and younger siblings, who are still minors, has come up with the present petition to set aside the impugned order.

3. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner's father was working as Gang Mazdoor (H) C&M in Veppanthattai Sub-division



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and he expired on 09.02.2015, while in service. The petitioner, viz., Madhavan applied for compassionate appointment on 11.05.2017, though it is within 3 years, the 4th respondent had rejected petitioner's request for compassionate appointment for the reason that the petitioner has not attained 18 years of age on the date of application. Again the petitioner applied for compassionate appointment on 08.04.2022 stating that he attained 18 years of age on 04.03.2022. The 5th respondent had recommended the application of the petitioner to the 4th respondent for further action and the 4th respondent had rejected the petitioner's request for compassionate appointment on the ground that application for compassionate appointment should be submitted within 3 years from the date of death of government servant. Since the petitioner has given the application for compassionate appointment after three years from the date of death of his father, the present Writ Petition deserves to be dismissed.

4. Heard the learned counsel on either side and perused the documents placed on record.



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5. It is pertinent to point out that the petitioner's date of birth is 05.03.2004. The petitioner's father, viz., M.Palaniyandi, who was working as Gang Mazdoor (H) C&M in Veppanthattai Sub Division expired on 09.02.2015, while in service, leaving behind his wife and three children, out of which, the petitioner is the eldest son. The petitioner applied for compassionate appointment on 11.05.2017, though it is well within three years from the date of death of Government servant, the authority has rejected the same on the ground that the petitioner has not attained majority. While so, again the petitioner applied for compassionate appointment on 08.04.2022 stating that he attained 18 years of age on 04.03.2022. The 5th respondent had recommended the application of the petitioner to the 4th respondent for further action and the 4th respondent had rejected the petitioner's request for compassionate appointment on the ground that application for compassionate appointment should be submitted within 3 years from the date of death of government servant.

6. Taking into consideration of the facts and circumstances of the case and considering the petitioner's family circumstances and further since it is reported that the petitioner has completed his higher



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secondary grade / 12th, this Court inclined to direct the respondents to pass appropriate orders on the compassionate application filed by the petitioner and if he is eligible with regard to the age alone, the respondents shall provide an appointment to the petitioner on compassionate ground, as an extraordinary one within a period of twelve weeks from the date of receipt of copy of this order.

Accordingly, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

14.11.2024

Index : Yes/No
Internet: Yes / No
Speaking order : Yes/No
ssd

To

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V.BHAVANI SUBBAROYAN, J.

ssd

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