



WEB COPY



W.P.No.36305 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.36305 of 2024
and W.M.P.No.39187 of 2024

S.Karthikeyan

...

Petitioner

-Vs-

1. The Principal District and Sessions Judge
Coimbatore.
2. The Judicial Magistrate No.VII
Coimbatore.
3. The Chief Administrative Officer
Principal District Court, Coimbatore.
4. The Secretary to Government
Home (Courts) Department, Secretariat.,
Fort St.George, Chennai 600 009.
(Suo-motu impleaded vide this order
of this Court dated 11.12.2024 by
RSKJ & CSNJ)

...

Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India calling for the records of the 3rd respondent in A.No.1289/2024 with D.No.9143/2024 dated 18.10.2024 and quash the same and consequently directing the respondents to appoint him on compassionate ground for a suitable job.



W.P.No.36305 of 2024

For Petitioner : Mr.G.Sudhakar
For Respondents : Mr.Arjun Suresh – for RR 1 to 3
Mr.Alagu Goutam
Government Advocate – for R4

ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.**)

The petitioner's mother one S.Selvi, formerly working as Examiner at the Principal District Court, Coimbatore died in harness on 28.02.2024. As the petitioner is the son, who is eligible to seek for compassionate appointment in any Group 'C' or Group 'D' posts, as per the earlier government order which was earlier in vogue ie., G.O.Ms.No.18, Labour and Employment Department dated 23.01.2020, he made an application seeking for such compassionate appointment on 10.07.2024. However, the same has been rejected by returning the documents filed along with the application, by the first respondent vide his proceedings dated 18.10.2024. Challenging the same, the present writ petition has been filed.

2. We have heard Mr.G.Sudhakar, learned counsel for the writ petitioner and Mr.Arjun Suresh, learned counsel for the respondents 1 to 3.



W.P.No.36305 of 2024

3. Learned counsel for the petitioner would submit that, at the time of making the application on 10.07.2024, the petitioner's age was 40 years 2 months and 13 days, and according to the conditions imposed under G.O.Ms.No.18 since the maximum age of the seeker of the compassionate appointment, if he is the son or daughter of the deceased employee, he / she must not have reached the maximum upper age limit of 40 years and since the petitioner has crossed that upper age limit at the time of making the application, on that ground the application was rejected through the impugned order. Learned counsel would contend that such a delay caused in not making the application immediately after the death of the mother of the petitioner was because certain certificates viz., death certificate, legal heir certificate etc., had to be obtained from various authorities, and only after getting such certificates since such application has been made, in the meanwhile the petitioner since has crossed 40 years of age as has been prescribed under G.O.No.18, the said marginal over age of 2 months and 13 days could be considered by the appointing authority viz., the first respondent and therefore the rejection which is impugned herein dated 18.10.2024 is liable to be interfered with, he contended.

4. However, Mr.Arjun Suresh learned counsel for the respondents 1 to 3 would submit that as per the rule which was in vogue, the applicants who seek for



W.P.No.36305 of 2024

appointment under the compassionate ground must have made application immediately after the death of the employee along with necessary certificates, which include death certificate, legal heir certificate, educational qualifications etc., and without those certificates, if any application is made, on that ground also such application could be summarily rejected. He further submits that due care must have been taken by the applicant to obtain such necessary certificates as quickly as possible and make the application. He should have acted expeditiously and since he has made the application belatedly after nearly 2 years and 13 years, as per the rule which was in vogue, wherein the upper age limit of 40 years was prescribed, his application could not be processed and was rejected by the first respondent, of course rightly, he contended.

5. We have also gone through the materials placed before us. It is to be noted that originally G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 was the relevant rule. However, replacing the same a new Rule called Tamil Nadu Civil Services (Appointment on Compassionate Grounds), Rules 2023 has been brought into effect by issuance of a Government Order in G.O.Ms.No.33, Welfare and Skill Development (Q1) Department dated 08.03.2023. The earlier Rule in G.O.Ms.No.18 dated 23.01.2020 has been replaced by the aforesaid G.O.Ms.No.33 dated 08.03.2023.



W.P.No.36305 of 2024

6. Among other things, the age criteria that has been fixed under the Rule as Rule 6 reads thus:

*“ **Age Limit:-** (1) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, on the date of application for appointment:-*

(a) the spouse of the deceased or medically invalidated Government servant or the parent of the deceased Government servant, must not have completed fifty years of age; and

*(b) the son, daughter, brother or sister of the deceased or medically invalidated Government servant must not have completed **forty years of age.***

(2) Notwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minimum age limit for the applicant on the date of application for appointment.

Provided that appointment shall not be provided unless the applicant completes eighteen years of age.”

7. Since the applicant is the son of the deceased employee, he must not have completed 40 years of age on the date of making the application, but admittedly on the date of application on 10.07.2024, he has already crossed the age of 40 years by 2 months and 13 days. Therefore, as per the Rule the application cannot be



W.P.No.36305 of 2024

proceeded further. Hence, we cannot find fault with the way in which the application was disposed by rejecting the same through the impugned order dated 18.10.2024 by the first respondent. To that extent, we do not see any plausible reason to interfere with the said order.

8. But at the same time, under Rule 17 of the Rules, the power to relax any such condition imposed under the Rules is vested with the Government. Rule 17 reads thus,

“ 17. Power to Relax : Where the Government is of the opinion that it is necessary or expedient so to do, it may by order, for reason to be recorded in writing, relax any of the provisions of these rules with respect to any person where the operation of these rules causes any hardship;

Provided that educational qualification prescribed for appointment to any post shall not be relaxed.”

9. A reading of Rule 17 cited supra makes it clear that, the upper age limit prescribed under Rule 6 can very well be relaxed, as it comes within the domain of the Government by exercising its power under Rule 17 in deserving cases under special circumstances.

10. Here in the case in hand, though otherwise the petitioner might be eligible to seek for such compassionate appointment, in view of the over age issue



W.P.No.36305 of 2024

by virtue of Rule 6 of the latest Rules as stated supra, such over age by 2 months and 13 days, whether can be relaxed or not can also be decided by the State Government. For the said purpose, since the power of relaxation is vested with the Government, the Secretary to Government, Home (Courts) Department, Secretariat, Fort St.George, Chennai is *suo-motu* impleaded as 4th respondent in this writ petition.

11. Hence, we feel that while dismissing this writ petition, as the impugned order cannot be interfered with, as stated supra we direct the first respondent to forward the application of the petitioner to the State Government for processing the same to give relaxation under Rule 17 of G.O.Ms.No.33 dated 08.03.2023. Such a compliance shall be made by the first respondent within a period of 30 days from the date of receipt of a copy of this order. On receipt of such application to be forwarded by the 1st respondent, the State Government shall look into the matter and pass necessary orders by exercising its power under Rule 17 of G.O.Ms.No.33 dated 08.03.2023 based on merits and in accordance with law and a final decision to that effect shall be communicated to the first respondent either way within a period of two months thereafter. It is needless to mention that, depending upon such a decision taken by the State Government by exercising its power under Rule 17, further course of action can be decided by the first respondent.



W.P.No.36305 of 2024

WEB COPY

12. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
11.12.2024

Index : Yes/No
Internet : Yes/No
KST

To

1. The Principal District and Sessions Judge
Coimbatore.
2. The Judicial Magistrate No.VII
Coimbatore.
3. The Chief Administrative Officer
Principal District Court, Coimbatore.
4. The Secretary to Government
Home (Courts) Department, Secretariat.,
Fort St.George, Chennai 600 009.



WEB COPY



W.P.No.36305 of 2024

R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

KST

W.P.No.36305 of 2024

11.12.2024