



W.P.(MD)No.1012 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.1012 of 2024

J.Mahendiran

... Petitioner

vs.

1.The District Collector,
Karur District, Karur.

2.The Block Development Officer,
Krishnarayapuram,
Karur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records in Na.Ka.Pa.Va3/5999/2023 dated 21.11.2023 on the file of the first respondent and quash the same and consequently direct the respondents to consider the application of the petitioner dated 20.11.2023 for compassionate appointment within a reasonable time as may be stipulated by this Court.

For Petitioner : Mr.Y.Prakash

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate



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ORDER

Heard Mr.Y.Prakash, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents.

2. The petitioner who is the son of the deceased Government Servant P.Jayaraman has filed this writ petition challenging the order of rejection of compassionate appointment dated 21.11.2023 passed on his application for compassionate appointment dated 20.11.2023.

3. On a perusal of the impugned order, it is seen that the petitioner's application was not considered because he was only 15 years old on the date of death of his father ie., as on 26.10.2015. In a similar facts and circumstances, the Principal Bench of this Court has passed an order dated 21.12.2023 in W.P.No.10068 of 2021 wherein it is observed as under.

"8. Since the compassionate appointment



scheme itself was framed just to save the family of the deceased employee from poverty, the respondents need not apply the clutches that strongly on technicalities. It is within the the discretion of the respondents to relax the rules with regard to the age or other parameters, in accordance with the exclusive family situation of the deceased employee and that might differ from case to case.

9. In this regard, it is relevant to cite the judgment of the Hon'ble Supreme Court held in Chief Engg. T.N.Electricity Board & Anr. Vs. Indiraniammal in C.A.No.2039 of 2006 wherein the Hon'ble Supreme Court has set aside the judgment of the Division Bench of this Court wherein the entitlement of the petitioner to get a compassionate appointment subsequently attaining majority was rejected. The relevant portion of the said judgment would read as under:-

“The Division Bench of the High Court has reversed the judgment of the learned Single Judge only on the ground of delay who directed compassionate appointment to the appellant.



The appellant was a minor at the time of the death of his father and since the mother of the appellant applied within time. We are of the opinion that the appellant after becoming major should have been granted compassionate appointment.”

10. It is not the claim of the respondents that either the petitioner's mother or any member of the family was working elsewhere or in the Department and was earning money for a better livelihood. Except the family pension which was given to the wife of the deceased, the family is left with no other source of income. Even in those families where there is any eligible member to get a compassionate appointment, family pension is not denied. So getting the family pension by the spouse of the deceased cannot be the only reason to not consider the indigenous circumstances of the family of the deceased. In fact, the rejection has not stated anything about the economical self sufficiency of the petitioner and considered it as a reason for rejection.

11. It is seen that the mother of the petitioner



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was prompted to give the representation within a period of 3 years from the date of death of her husband and that can be considered as representation given within a period of 3 years. So far as the minimum age requirement of the petitioner is concerned, the respondents shall consider his attainment of majority at the time when the application itself is taken up for consideration and the impugned order is passed. If required the rules if any can be relaxed by considering the petitioner's case as a special case and consider the representation of the petitioner afresh by passing an order favourably by accommodating him in anyone of the post on compassionate scheme.

4. In the case on hand also, the petitioner was a minor on the date of death of his father. He has made representations for compassionate appointment well within three years. The representations were rejected on the sole ground that the petitioner was a minor on the date of death of his father. The impugned order does not also speak anything about the indigenous circumstances of the family of the



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deceased employee. In such circumstances, the above cited Judgment will apply to the facts and circumstances of the present case. In view of the above Judgment and considering the indigenous circumstances of the family and considering the fact that the petitioner had attained majority on the date of impugned order i.e., on 21.11.2023, this Court is of the opinion that the rules if any can be relaxed by considering the petitioner's case as a special case.

5. With the above observations, the Writ Petition stands allowed and the impugned order of the first respondent dated 21.11.2023 in Na.Ka.Pa.Va3/5999/2023 is hereby quashed. The first respondent is directed to consider the representation of the petitioner afresh and pass as orders positively by accommodating the petitioner in anyone of the posts included in the compassionate appointment scheme and suiting to his qualification. No costs.

08.04.2024

NCC: Yes/No
Index : Yes/No



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Speaking/Non-Speaking order

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To

- 1.The District Collector,
Karur District, Karur.
- 2.The Block Development Officer,
Krishnarayapuram,
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R.N.MANJULA, J.

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