



W.A.(MD) No.178 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD) No.178 of 2024
and
C.M.P.(MD) No.1526 of 2024**

The General Manager
Tamil Nadu State Transport Corporation
(Madurai) Limited
Dindigul Region
Dindigul

... Appellant

-vs-

1.The Commissioner and
Secretary to Government
Transport (C1) Department
Fort St.George, Chennai-9

2.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited
rep.by Managing Director
Kumbakonam

3.S.Karthikeyan

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.09.2018, passed in W.P.(MD) No.8393 of 2017, on the file of this Court.

For Appellant : Mr.J.Senthil Kumaraiah

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 & R2
Mr.A.Rahul for R3

J U D G M E N T

[Judgment of the Court was made by D.KRISHNAKUMAR, J.]

The order dated 11.09.2018, passed in W.P.(MD) No.8393 of 2017, directing the appellant – Transport Corporation to consider the case of the third respondent / writ petitioner, whose father died in harness, for compassionate appointment, is under challenge in this writ appeal.

2. According to the appellant – Transport Corporation, the third respondent's father was working as Driver in the Transport Corporation and he met with an accident, due to which, his leg was amputated. Therefore, on medical ground, he was discharged from duty. However, subsequently, he was reappointed as Helper as a fresh entrant. Unfortunately, on 18.07.2011,



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he died, while he was in service. Subsequently, on 19.08.2011, the third respondent's mother submitted a representation for compassionate appointment to the third respondent / son. The said representation was rejected, on the ground that while the third respondent's father was discharged on medical ground, the entire terminal benefits due to him were settled and on the ground of alternative employment, he was appointed as Helper and therefore, on his demise, his dependents are not entitled for compassionate employment. Therefore, the order passed by the learned Single Judge calls for interference of this Court.

3. Learned counsel appearing for the third respondent strongly objected the above submissions of the appellant by stating that the deceased employee was reinstated into service as a regular employee and thereafter, while he was in service, he died. Therefore, on his demise, his dependents are entitled for compassionate appointment. In such circumstances, the order passed by the learned Single Judge does not call for interference of this Court and this writ appeal is liable to be dismissed.



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4. A perusal of the materials available on record shows that the third respondent's father was initially working as Driver and he met with an accident and his leg was amputated. Hence, he was discharged from service on medical ground. However, he was reappointed as Helper and while he was working as Helper, he died in harness. When the third respondent's mother made an application for compassionate appointment to him, the same was rejected.

5. At this juncture, it would be relevant to refer the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995. Section 47 of the said Act reads as follows:

“47. Non-discrimination in Government employment.—(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable



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post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."

6. A bare perusal of the said Act shows that it was enacted to give an effect to the proclamation on the full participation and equality of the people with disabilities and its prime object is to ensure that inherent dignity, individual autonomy, including the freedom to make one's own choices, and independence of persons, are properly provided to them. In such circumstances, denial of compassionate appointment to the dependents of the deceased employee with disability is not the spirit of the compassionate appointment scheme. Therefore, we are of the view that the order passed by the learned Single Judge does not call for any interference of this Court and we are not inclined to entertain this writ appeal.



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7. Accordingly, this writ appeal fails and it is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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