



WP(MD) No.7072 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.7072 of 2024

and

W.M.P(MD)No.6541 of 2024

S.Nelson Leo Kevin Soosai

... Petitioner

Vs.

1.The Joint Director of School Education (Personnel),
Directorate of School Education,
DPI Complex College Road,
Chennai.

2.The Chief Educational Officer
Office of the Chief Educational Officer,
Pudukkottai District.



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3.The District Educational Officer,
Office of the District Educational Officer,
Pudukkottai District.

4.The Block Educational Officer
Block Educational Office,
Arimalam,
Pudukkottai 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 pertaining to the impugned order in Na.Ka.No.4754/A1/2019 dated 08.07.2022 passed by the 3rd respondent and quash the same as illegal and to consequently direct the respondents to provide suitable employment to the petitioner on compassionate ground.

For Petitioner : Mr.O.R.Gokul Abimanyu
for M/s.C.Arulvadivel Associates

For Respondents : Mr.T.Amjadkhan
Government Advocate



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ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.4754/A1/2019 dated 08.07.2022 passed by the 3rd respondent and quash the same as illegal and consequently direct the respondents to provide suitable employment to the petitioner on compassionate ground.

2. Heard Mr.O.R.Gokul Abimanyu, learned counsel representing M/s.C.Arulvadivel Associates for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner submitted that The petitioner's mother Mrs.L.Sahaya Amali Rani was working as Headmistress in Panchayat Union Elementary School, Ayinkudi, and died on 24.12.2015 due to cancer, while she was in service.



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She left behind the petitioner's father, her elder brother and petitioner as the legal heirs. The petitioner's father and brother are unemployed. At the time of the death of the petitioner's mother, the petitioner was aged about 16 years and he was pursuing 10th Standard. The petitioner preferred an application on 22.03.2010 within three years from the date of death of his mother after he attains majority with all relevant documents, but the same was not considered on the ground that the petitioner has not completed 18 years of age on the date of his application.

4. He also relied on the judgment of the Division Bench of this Court passed in **W.A.(MD)No.1070 of 2018 dated 04.12.2020** in the case of **B.Vairakumar Vs. The Superintendent of Prison, Madurai**, wherein it is held as under :

*“4.It is evident from the decision of the Hon-ble Apex Court in **Syed Khadim Hussain v. State of Bihar [(2006) 9 SCC 195]** that what is relevant is, when the order of rejection was passed. On the date of order, the*



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appellant attained majority. In Uma Maheswari-s case, the appeal filed by the Government was dismissed and the order giving relief was sustained. Paragraph 5 of Uma Maheswari's case reads as follows:

*"5.The contention of the appellants is directly answered by the decision of the Hon'ble Supreme Court, in the case of **Syed Khadim Hussain Vs. State of Bihar and Others**, reported in (2006) 9 SCC, 195. The facts obtaining in the said decision and the present case are similar. In the said case also when the applicant submitted an application for compassionate appointment, he was minor, but, when the order of rejection was passed the applicant attained majority. When the applicant made application for compassionate appointment in the year 2008, the authorities did not immediately pass the order of rejection. The order of rejection came to be passed only in the year 2010. By then the writ petitioner had attained majority. Therefore, the learned single Judge rightly set aside the order impugned in the writ petition. In fact, the learned Judge had followed earlier precedents of this Court. We see no reason to differ."*



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In view of the above, the order of the learned Single Judge is liable to be set aside.”

5. The above order has been passed by adopting the judgment of the Supreme Court held in ***Syedkadim Hussain Vs. State of Bihar and others***, which holds that what is relevant is the attainment of majority of applicant at least on the date of passing the rejection order.

6. The learned Government Advocate relied on the judgment of the Division Bench of this Court in W.A(MD)1161 of 2022, dated 29.09.2022, in support of his contention that if the applicant is a minor at the time of death of his father even the application is filed within a period of three years, it is not maintainable. However, the said order does not make a reference about the orders of the Supreme Court.

7. But in all the orders which upheld the rejection of the



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compassionate application for the reason that the applicant was minor at the time of death of the Government servant, it seems that the orders have been passed during the minority of the applicant. Further, in some of the cases, three years time itself lapsed before the minor attaining the majority. In such cases, nothing can be done and it is right to hold that the Rules prohibit the consideration of such application filed by the minors.

8. However, in the instant case, no order has been passed at the time when the petitioner was a minor. But the impugned order has been passed at the time after the minor has become major and hence, the petitioner is entitled to the benefit of the settled position in this regard as held by ***Syed Hussain Vs. State of Bihar and others.***

9. The petitioner's mother died on 24.12.2015. The petitioner had filed his application on 23.12.2016 on which date



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itself he was a minor. However, the application was not rejected, but, it was returned on the ground that he has not completed 18 years. But the petitioner has represented his application after he attaining majority and at that point of time, the three years mandatory time for filing the application got lapsed. Though at the time when the order was passed the petitioner was a major, the application has not been filed within three years and the petitioner had not chosen to represent the application immediately, after it was returned to him. Hence, I find that there is no ground to entertain this Writ Petition.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.7072 of 2024

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