



W.P.(MD)No.7319 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.7319 of 2024
and WMP(MD)No.6738 of 2024

Loganayagan.R

... Petitioner

Vs.

The Assistant Commissioner,
Labour and Employment Department,
Madurai Corporation,
Anna Maaligai, Tallakulam,
Madurai -625002.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the respondent bearing No.A4 (Ma.Ni.17)/02824/2018 dated 13.07.2022 and quash the same and consequently direct the respondent to grant appointment to the petitioner on the basis of compassionate ground in any one of the post in the



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respondent Department.

For Petitioner : Mr.Samidurai.K

For Respondent : Mr.S.Vinayak
Standing Counsel

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the respondent in No.A4 (Ma.Ni.17)/02824/2018 dated 13.07.2022 and consequently to direct the respondent to appoint the petitioner on Compassionate Ground.

2. Heard Mr.K.Samidurai, learned counsel for the petitioner and Mr.S.Vinayak, learned Standing Counsel for the respondent.

3. The petitioner's father, who was working as a Driver died on 25.08.2018 while he was in service. Hence, the petitioner had given a representation to the respondent on 22.10.2018 seeking for compassionate appointment since his family is in indigenous circumstances. But the said representation was rejected by the respondents stating that at the time

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when the application was filed the petitioner ought to have completed 18 years of age. Hence, the petitioner had given a representation on 25.11.2021 after he attained majority. But the said representation was also rejected stating that in G.O.Ms.No.18 dated 23.01.2020 there is no provision to provide compassionate appointment to the petitioner, as he was a minor at the time of the death of his father. Hence, this petition.

4. Mr.K.Samidurai, learned counsel for the petitioner submitted that the petitioner's application dated 22.10.2018 seeking appointment on compassionate grounds was not considered, as he was a minor at the time of submitting the application. After attaining majority, the petitioner sent another application on 25.11.2021 and that application was also rejected by the respondent stating the same reasons. Hence, he prayed that considering the indigent circumstances of the petitioner's family, he shall be given an appointment on compassionate grounds.

5. The learned Standing counsel for the respondent placed reliance on the interim order of the Full Bench of this Court in **W.P.**



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(MD)No.7016 of 2011 and batch dated 11.03.2020 [Nandini Devi vs.

The Secretary to Government, Health and Family Welfare Department,

Secretariat, Chennai and batch] wherein it is held that no application for

appointment on compassionate grounds can be entertained after a

maximum period of three years. The relevant portion of the order is

extracted hereunder.

"13. In the light of the above we find that the judgment in the case of A. Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E. Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above."

6. There is no quarrel on the point that for submitting an application seeking compassionate appointment, there is limitation of maximum period of three years and the applicants are expected to submit



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such applications within a period of three years and applications filed any time later shall not be considered. But, the case on hand is distinguishable on facts. The petitioner who is the son of the deceased Government employee, at the first instance had submitted his application for appointment on compassionate grounds after the death of his father in the year 2018 itself. Since the petitioner was minor at that time, a job for compassionate appointment can be reserved for him, since the petitioner's father was the only breadwinner of the family. Even though the petitioner has given an application on 25.11.2021 after he attained majority, the representation given by the petitioner in the year 2018 seeking to provide appointment to him was very much in force.

7. In this case, it cannot be treated that the application itself has been filed after the expiry of three years. After he attains majority, it could have been appropriate if the application has been considered in a holistic manner without rejecting the same on the misconception that the application has been filed beyond a maximum period of three years.



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8. At this juncture, it is relevant to extract the necessary portion in the appended Notification of the Government Order in G.O.Ms.No.33, Labour Welfare and Skill Development (A1) Department, dated 08.03.2023 hereunder.

"6.Age Limit.-

(1) ...

(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."

9. The above Government Order clearly states that there is no minimum age limit for submitting an application for appointment on compassionate grounds and it is sufficient that the person is a major on the date when appointment is given.

10. In the instant case, the petitioner had given an application in the year 2018 to consider him for appointment on compassionate grounds.



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So without initiating action on the earlier representation made by the petitioner in the year 2018, the respondents had chosen to take action on the representation made by the petitioner in the year 2021 and subsequently had also rejected it. Even with regard to the Government Order in G.O.Ms.No.33, Labour Welfare and Skill Development (A1) Department, dated 08.03.2023, it cannot be stated that it has to be given with prospective effect for the reason that the said Government Order only clarified or interpreted the age limit which has been earlier prescribed in the Scheme for submitting the application for appointment of compassionate grounds.

11. It is once again clarified that, in the instant case, the petitioner has not filed a fresh application in the year 2021, but he has already given an application in the year 2018 well within the period of limitation. The representation made by the petitioner in the year 2021 can only be considered as a renewal representation.



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12. In view of the above observations, the writ petition is disposed of and the impugned proceedings issued by the third respondent in No.A4 (Ma.Ni.17)/02824/2018 dated 13.07.2022 is quashed and the respondent is directed to consider the representation of the petitioner dated 25.11.2021 in a holistic manner and pass orders afresh in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes/No
PJJ

To
The Assistant Commissioner,
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R.N.MANJULA, J.

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