



W.A.(MD)No.1146 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.1146 of 2024

S.Palaniammal

... Appellant

VS

**1.The Managign Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye-Pass Road, Madurai-16.**

**2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Madurai Region, Madurai -16. ...Respondents**

**PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside
the order of this Court dated 23.08.2023 passed in W.P(MD)No.4864 of
2023.**

For Appellant : Mr.S.Govindan

For Respondents : Mr.K.Ramiah



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JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

The Writ Appeal is preferred against the order, dated 23.08.2023 made in W.P(MD)No.4864 of 2023, whereby, the Writ Petition, challenging the rejection of the appellant's application seeking appointment on compassionate ground, was dismissed.

2.It is the case of the appellant that her husband, Late K.Sanjeevi Raj, was appointed as Conductor on daily wage basis on 09.10.2008. Her husband, while he was in service, died on 11.12.2009, leaving behind the appellant and the minor son aged 12 years and the daughter aged 8 years. Immediately, on the death of her husband, she had made an application seeking appointment on compassionate ground, on 02.05.2010. But, however, the second respondent, by proceedings, dated 11.08.2010, rejected the claim of the appellant on the ground that the appellant's husband was only a daily wage employee and his services were not confirmed. Though the appellant had not challenged the order of rejection, but however,



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submitted a fresh representation on 01.02.2023, which was also rejected by the orders of the second respondent, dated 14.02.2023. Challenging the order rejecting the claim, the appellant had preferred the Writ Petition.

3.The Writ Court, after considering the issues, found that when the appellant had not challenged the order of rejection, dated 11.08.2010, cannot successively maintain a Writ Petition challenging the subsequent rejection order, dated 14.02.2023, which is based on a fresh application made after 13 years and dismissed the Writ Petition. Assailing the order passed in the Writ Petition, the Writ Petitioner has preferred the above appeal.

4.The learned Counsel for the appellant argued that even though the appellant's husband worked as a Conductor on daily wage basis, still since he has completed 240 days in a calender year, his service is entitled to be regularised and therefore, when once the same is regularised, the appellant, being the wife, is entitled to seek employment on compassionate ground. The learned Counsel further submitted that the appellant's husband, in view of the 12(3) settlement, dated 30.09.1992, is entitled for regularisation, as



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her husband had worked for 240 days between December 2008 and November 2009 and the same has not been considered by the Writ Court.

5.The learned Counsel further contended that even though the deceased employee worked on a daily wage basis, still based on the orders passed by the Division Bench of this Court in the case of ***M.Fathima vs Registrar, High Court***, reported in ***(2016) 2 MLJ 633***, the non-regularisation of the service of the deceased will not be an impediment for considering the application seeking compassionate appointment of the legal heir on the death of the employee. The learned Counsel further contended that since the appellant's husband died within one year and two months from the date of employment, she was not having any details of the service rendered by him and therefore, sought details from the respondents under the Right to Information Act, and only since the information was provided to the appellant on 06.10.2022 providing the employment details of the deceased, she had, with the available details, submitted a fresh representation on 01.02.2023 and only in such circumstances, there had been a delay, which cannot be put to against the appellant, but however, the learned Judge had erroneously dismissed the Writ Petition without



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considering the factual details, he contended and sought for interference of this Court.

6.Mr.K.Ramiah, learned Standing Counsel for the respondents submitted that the appellant's husband, who worked as a Conductor on daily wage basis admittedly for nearly a year, had died and the appellant cannot maintain a claim seeking compassionate appointment, as the scheme of compassionate appointment in the respondent Department does not cover for the daily wage employee. The learned Standing Counsel further submitted that the application originally submitted by the appellant since had been considered and rightly rejected as early as on 11.08.2010, which the appellant did not choose to challenge, cannot maintain a Writ Petition at this point of time that too after a period of 13 years, whereby, a fresh representation submitted by her was replied through the impugned communication, dated 14.02.2023 and only in such circumstances, the learned Judge has dismissed the Writ Petition, which needs no interference and sought for dismissal of the Writ Appal.



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7. Heard the learned Counsel on either side and perused the materials available on record.

8. The appellant's husband, admittedly, was appointed as a Conductor on daily wage basis on 09.10.2008. After working for around one year and two months, he died on 11.12.2009. On the death of her husband, the appellant had submitted an application seeking appointment on compassionate ground on 02.05.2010. The application of the appellant was rejected by the orders of the second respondent on 11.08.2010 on the ground that since the appellant's husband was only a daily wage employee, the scheme of compassionate appointment is not applicable to him. As rightly observed by the learned Judge, the appellant has not chosen to challenge this order of rejection passed by the second respondent.

9. However, it is the vehement contention of the learned Counsel for the appellant that the appellant was not having the service particulars of her husband and only due to that, she was not able to challenge the rejection order, but with great difficulties, she was able to get the details from the respondent Department through the Right to Information Act. Since the



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details were furnished by the respondent only on 06.10.2022, the appellant had preferred a fresh representation to the respondents seeking appointment on compassionate ground due to the death of her husband and this delay caused cannot be put to against the appellant in rejecting the claim for compassionate appointment, which has to be considered on equitable grounds.

10.It is the case of the appellant that since from the details collected, it could be seen that the appellant's husband had worked for 240 days in the calender year, he is entitled for regularisation in view of 12(3) settlement entered into and therefore, when once he is entitled for permanency, the appellant automatically would become entitled to be considered for appointment on compassionate ground. We are not inclined to accept the argument advanced by the learned Counsel for the appellant for the simple reason that when the appellant was diligent enough to file an application seeking appointment on compassionate ground immediately on the death of her husband and the same was rejected by the order of the second respondent, dated 11.08.2010, the appellant did not chose to challenge the order of rejection. After a period of 13 years, the appellant had made a



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representation renewing the same claim, which was replied by the respondent Corporation through the impugned communication that since the appellant's husband was only a daily wage employee, he is not covered under the compassionate appointment scheme. Only this order, dated 14.02.2023, was put to challenge by the appellant.

11. Even in so far as the details furnished by the respondent Department under the Right to Information Act, on 06.10.2022, which the appellant very much relies on to make a claim that the appellant's husband worked in the respondent Department for 240 days in a calendar year is not factually correct. From the details furnished by the respondent Department, it could be seen that the appellant's husband in his total service for the period from 09.10.2008 to 11.12.2009 had only worked for a period of 46 days in the year 2008 and had worked for only 239 days in the year 2009 and thereby, has not worked continuously for a period of 240 days in a calendar year. As such, the claim made by the appellant on this ground also fails.



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12.The learned Judge, after considering all the above factual aspects, have arrived at a decision in rejecting the claim made by the appellant, which is perfectly justified and needs no interference at the hands of this Court.

13.For all the above reasons, the Writ Appeal fails and is accordingly dismissed. However, there shall be no order as to costs.

[R.S.K., J] & [G.A.M., J]
15.07.2024

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

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AND

G.ARUL MURUGAN, J.

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Judgment made in
W.A(MD)No.1146 of 2024

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