BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A.(MD).No.14 of 2024
and
C.M.P.(MD)No.66 of 2024

1.The Principal Secretary of the Government of Tamil Nadu,
Commercial Taxes Department,
Secretariat, Chennai – 9.

2.The Joint Commissioner,
Commercial Taxes, Madurai Division,
Madurai – 20.

3.The Joint Commissioner (Enforcement),
Commercial Taxes,
Madurai – 20. ... Appellants

-vs-

N.Janaki ... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)No.15755 of 2020, dated 07.01.2021.

For Appellants : Mr.R.Suresh Kumar
Additional Government Pleader
For Respondent : Mr.S.Govindan

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.Govindan, learned counsel takes notice for the respondent.

2.We are unable to find fault with the Writ Court where having allowed the Writ Petition, quashing the order impugned in the Writ Petition dated 19.09.2018, in and by which, the claim for compassionate appointment made by the respondent was rejected by the authorities. The husband of the respondent died on 11.04.2011. She filed an application, seeking compassionate appointment in the year 2013 for her daughter, who was minor at the time of her father's death. The claim was rejected on the ground that she is a minor and therefore, the appointment cannot be granted. Subsequently, the respondent renewed the application on 16.09.2020 and the same was also not considered by the authority. The Writ Court relied upon the judgment of the Hon'ble Supreme Court in ***Syed Khadim Hussain v. State of Bihar*** reported in ***2006 (9) SCC 195***, held that the application is filed within three years from the date of attaining majority and the same should be considered. The reliance was also placed on ***Chief Engineer/Personnel, TNEB v. S.Suder*** reported in ***Manu/TN/0635/2009***. Aggrieved, the Department is on Appeal.

3.Mr.R.Suresh Kumar, learned Additional Government Pleader would contend that unless the daughter was major on the date of death or on the date of application, the authorities are not bound to consider the same.

4.This contention of the learned Additional Government Pleader militates against the Rules framed and judgment of the Hon'ble Division Bench of this Court in ***State of Tamil Nadu v. C.Arnold***, wherein the Hon'ble Division Bench after referring to the Rules held that since no minimum age has been prescribed for appointment on compassionate ground, if the application is filed within three years, appointment should be given on the minor on attaining majority. The Hon'ble Division Bench also relied upon Sub Rule 2 of Rule 6 of Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023. Even though the Rules were framed in the year 2023, the Rules were based on earlier pronouncement of this Court and therefore, we see no reason to interfere in the order of the Writ Court.

5.The Writ Appeal fails and it is accordingly dismissed. The authorities will consider the application and pass orders, granting compassionate appointment within a period of 12 weeks from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] **[L.V.G., J.]**
30.10.2024

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

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Madurai – 20.

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Mrn

W.A.(MD).No.14 of 2024

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