



W.A.(MD) No.1251 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE L.VICTORIA GOWRI

W.A.(MD) No.1251 of 2019

and

C.M.P.(MD) No.10754 of 2019

and

C.M.P.(MD) No.8948 of 2023

- 1.The Commissioner and Secretary to the
Department of Highways and Rural Works,
Secretariat, St. George Fort, Chennai-600 009.
- 2.The Chief Engineer,
Highways and Rural Works,
Chepauk, Chennai-600 009.
- 3.The Superintending Engineer,
Highways and Rural Works Department,
Madurai Division,
Madurai-625 002.



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4.The Divisional Engineer,
Highways and Rural Works Department,
Madurai-20.

5.The Assistant Divisional Engineer,
Highways and Rural Works Department,
Madurai-20.

... Appellants/
Respondents

Vs.

P.Saravana Kumar

... Respondent/
Writ Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 11.01.2019 made in W.P.(MD) No.12280 of 2018.

For Appellants : Mr.N.Muthuvijayan
Special Government Pleader

For Respondent : Mr.M.Vivek Kumar

JUDGMENT

(Judgment of the Court was delivered by ***L.Victoria Gowri, J.***)

This writ appeal has been directed as against the order passed by the learned Single Judge in W.P.(MD) No.12280 of 2018 allowing the writ petitioner's



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claim for appointment on compassionate grounds on the death of his brother on 30.12.2011, who was a Government servant.

2. The issue which has given rise to the filing of the writ petition is precisely as to whether the respondent, who is the brother of the deceased employee could be automatically declared as one of the legal heirs on the ground that the deceased employee was a bachelor.

3. The order impugned in the writ petition came to be passed on the basis that the name of the respondent herein is not reflected in the legal heir certificate of the deceased employee. The legal heir certificate reflected only the name of the mother of the deceased and the respondent being the brother of the deceased employee, his name is not incorporated in the same. Challenging the same, the respondent has filed the writ petition and the learned Single Judge proceeded to conclude that non-inclusion of the writ petitioner's name in the legal heir certificate alone cannot be a ground to reject his claim for compassionate appointment. That apart, the fact that several representations were made by his mother for compassionate appointment, which were not



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considered, was also noted by the learned Single Judge. In the meanwhile, assailing the said order, this Writ Appeal came to be filed. However, when the matter was taken up for hearing, learned counsel for the respondent/writ petitioner submitted that legal heir certificate has been now issued by the competent authority by including the name of the writ petitioner, who is the brother of the deceased employee.

4. Learned counsel for the petitioner has also placed before us G.O.Ms.No. 33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, which has provided for rules called the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023. Rule 3(2) (d) of the said Rules provides as follows:

“3(2) The following members of the family of a deceased or medically invalidated Government servant, in the order of priority given under, are eligible for appointment on compassionate grounds, namely:-

- (a)*
- (b)*
- (c)*



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(d) Brother or sister of the deceased or medically invalidated unmarried Government servant or divorced or widowed Government servant, whose children could not be provided appointment due to health condition or having no children or minor children.”

5. In view of the mandate of the aforesaid rule, the contention of the learned Special Government Pleader, Mr.N.Muthuvijayan that the respondent is not the legal heir of the deceased employee and the case of a brother cannot be considered for appointment on compassionate grounds, cannot be sustained and in view of Rule 3(2)(d) of the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, we are of the considered view that there is no necessity for interfering with the order passed by the learned Single Judge.

6. Accordingly, this Writ Appeal is dismissed with a direction to the appellants to consider the respondent/writ petitioner's case for appointment on compassionate grounds in terms of G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023 and pass orders on



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merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.) (L.V.G., J.)
18.06.2024

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

ABR



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