



W.A(MD) No.940 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserving the order	Date of Pronouncing the order
19.09.2024	22.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA
PRASAD**

W.A(MD) No.940 of 2018

S.Kasthuri Bai

... Appellant/Petitioner

-VS-

1.Tamil Nadu State Trasnport
Coporation (Madurai) Ltd,
Nagercoil Division, Ranithottam,
Nesamany Nagar, Nagercoil – 629 001.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli Division, Tirunelveli. ...
Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside
the order passed in W.P. (MD) No.14622 of 2012 dated 14.02.2018.



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For Appellants : Mr.T.Selvakumaran
For Respondents : Mr.D.Jebaraj
Standing Counsel for R1 and R2

J U D G M E N T

**(Judgment of this Court was delivered by
J.SATHYA NARAYANA PRASAD, J.)**

The Writ Appeal had been filed aggrieved by the order dated 14.02.2018 whereby, the learned Single Judge had dismissed the said writ petition.

2. The writ petition has been filed for an issuance of writ of certiorarified mandamus calling for the records pertaining to the order passed by the first respondent in Letter No.241/A10/TNSTC (Tirunelveli)/Nager/2011 dated 12.03.2012 and quash the same and consequently, direct the first respondent to provide suitable employment opportunity to the daughter of the petitioner on compassionate ground under the jurisdiction of the first respondent.

3. The writ appellant/writ petitioner's husband late Raja was was employed as Conductor in Ranithottam Tamil Nadu State Transport Corporation (Madurai Division – III) and passed away on 06.03.2006



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while he was in service. The writ appellant/writ petitioner claims that her husband was the sole breadwinner of the family and on account of the sudden demise, the family was in penurious circumstances. Hence, she made an application seeking compassionate appointment on 18.01.2012 for her daughter namely, Sridevi, who was minor at the time of death of the husband of the appellant and attained the age of majority on 19.05.2012.

4. The husband of the appellant/petitioner died on 06.03.2006 and the application itself was preferred after a lapse of six year i.e., 18.01.2012. Even on 18.01.2012, when the application was made by the appellant/petitioner, her daughter/Sridevi has not attained the age of majority and she attained majority only on 19.05.2012.

5. The first respondent sent a reply stating that as per G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995 for compassionate ground appointments application has to be submitted within a period of three years from the date of death of the Government employee. Since, in the case on hand, the application was filed for the first time belatedly after six years i.e., on 18.01.2012. It is also sated in



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the reply of the first respondent that there is no rule to consider the application of the appellant/petitioner and the same was rejected by the first respondent.

6. Aggrieved over the rejection order passed by the first respondent, the appellant/petitioner preferred the writ petition in W.P. (MD) No.14622 of 2012 and the same was dismissed by the learned Single Judge on 14.02.2018, which is challenged in the present writ appeal.

7. The learned counsel for the appellant would submit that the husband of the petitioner died on 06.03.2006 and on that date, the age of the appellant was 45 years and since, she did not have educational qualification has not filed any application seeking compassionate ground appointment immediately after the death of her husband. The two daughters, namely, Sridevi was aged about 11 years and Sri Vigneswari was aged about 10 years, were minors as on the date of the death of the appellant's husband on 06.03.2006.

8. The learned counsel for the appellant submitted that the



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first daughter of the appellant, namely, Sridevi was born on 19.05.1994 and she has attained majority on 19.05.2012 and the representation was given to the second respondent on 18.01.2012 seeking appointment of Sridevi on compassionate ground.

9. The learned counsel for the appellant further submitted that since the appellant was not having any educational qualification, she could not apply for the compassionate ground appointment immediately after the death of her husband on 06.03.2006 and for the first time, she has applied only on 18.01.2012 requesting the second respondent to appoint her first daughter/Sridevi.

10. The learned Standing Counsel appearing for the respondents 1 and 2 would submit that the deceased employee died on 06.03.2006 whereas, the application was given only on 18.01.2012, that too after the delay of 6 years. This apart, the appellant's daughter has attained the age of majority only on 19.05.2012 even as per the affidavit of the appellant/petitioner herein. He further submitted that even on the date of the application on 18.01.2012, the first daughter/Sridevi of the appellant/petitioner was only a minor and only after four months, she



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attained majority i.e., on 19.05.2012.

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11. The learned Standing Counsel would further submit that even at the time of filing of the writ petition, the age of the appellant/writ petitioner was 51 years and as on date of the order passed by the learned Single Judge, the age was 56 years and as on date, her age is about 63 years and since, the first daughter was a minor and she was unable to submit the application seeking appointment on compassionate ground.

12. Heard the learned counsel for the appellant/petitioner and the learned Standing Counsel appearing for the respondents and perused the material available on record.

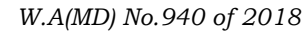
13. The main contention of the learned counsel for the appellant/petitioner is that as on the date of the death of her husband on 06.03.2006, the appellant could not apply for compassionate ground appointment since she did not possess required educational qualification and she could not apply even for her daughters since they were minors aged about 10 and 11 respectively, as on the date of the death of the husband of the appellant on 06.03.2006. The representation was given



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initially only on 18.01.2012 to the second respondent seeking appointment on compassionate ground to the first daughter of the appellant namely Sridevi, who attained the age of majority on 19.05.2012. The application was submitted four months prior to the attaining the age of majority. The above facts are not in dispute.

14. The appellant/petitioner has also furnished a copy of the income certificate No.TN-42024051510035 dated 21.05.2024, issued by the Zonal Deputy Tahsildar, Agastheeswaram, Kanyakumari District, in favour of one J.Mageshkumar, who is the husband of the first daughter of the appellant. This apart, as per the directions of this Court by order dated 13.08.2024, a report has been called for from the Tahsildar, Agasteeswaram Taluk, Kanyakumari District, as to the economic condition of the daughter of the appellant by name Sridevi, her husband and other family members and also the details pertaining to any lands owned by the husband of Sridevi or the family of the husband of Sridevi and the probable income, which he earns. The Tahsildar was also directed to give a report as to whether Sridevi is working in any private concern or even in the Government institution.

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<https://www.mhc.tn.gov.in/judis>



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institution. In regard to the income of the family of Sridevi, as per the income certificate issued by the Zonal Deputy Tahsildar, Agastheeswaram, Kanyakumari District, the annual income of the husband of Sridevi is Rs.1,20,000/-.

17. However, it is the contention of the the learned Standing Counsel for the respondents that there is an inordinate delay of 6 years in submitting an application by the appellant/petitioner on 18.01.2012, whereas, the date of death of the deceased employee is 06.03.2006. At the time of the death of the deceased employee, admittedly, the daughter was a minor and she was not eligible for compassionate ground appointment. However, the widow ought to have applied for the appointment on compassionate ground and since she did not possess the educational qualification, has not applied for the same even though she was aged about 45 years at that particular point of time.

18. The learned Standing Counsel has also placed reliance on the judgment of a Division Bench of this Court dated 06.08.2013 in the case of *A.Kamatchi -vs- The Chairman, Tamil Nadu Electricity Board*, reported in *2013 (2) CWC 758*, wherein this Court held as



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follows:-

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“Service Law – Compassionate Appointment – Limitation of 3 years – Whether Application for Compassionate Appointment made by son/daughter of deceased, after they attain majority, is liable to be rejected for non-submitting Application within 3 years, particularly when widow was not found fit to be appointed? - Held, if widow had applied for Compassionate Appointment and due to some reason, if she could not be appointed and same is followed by Application of son or daughter, after he or she attained majority, same cannot be rejected as time barred – In present case, Appellant is very much eligible to be appointed – His application for appointment not barred by limitation.”

19. According to the judgment of *A.Kamatchi* case (supra), the appellant/petitioner widow of the deceased employee, though did not possess the educational qualification, she ought to have applied for compassionate appointment within three years and if widow had applied for compassionate appointment and due to some reason, if she could not be appointed and same is followed by application of daughter or son after



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she/he attained majority, same cannot be rejected as time barred, but in the present case on hand, the fact is slightly different as the appellant/writ petitioner has not applied for the reason that she did not possess any educational qualification and was 45 years old and this apart, the application for compassionate ground appointment was submitted on 18.01.2012, four months before the date of attaining the majority on 19.05.2012. Hence, the application is within three years from the date of attaining the majority and the same is not time barred.

20. Admittedly, as per the income certificate issued by the Zonal Deputy Tahsildar, Agastheeswaram, Kanyakumari District and the report of the Tahsildar, Agasteeswaram Taluk, Kanyakumari District, the income of Magesh, the husband of the first daughter of the appellant/petitioner is a painter/coolie and his income is only Rs.1,20,000/- per annum and the monthly income is Rs.10,000/- per month and they are also having one daughter and a son. Apart from the 3 ½ cents land and house which was settled in favour of Sridevi by the other family members, there is no other property owned by Sridevi or her husband. Furthermore, due to the lack of educational qualification, the appellant/petitioner has not applied for compassionate ground application



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in time, however, she applied on behalf of her first daughter three months before her daughter attaining the age of majority. In the present case, the first daughter of the appellant/petitioner namely Sridevi is very much eligible to be appointed on compassionate ground. Therefore, we are inclined to interfere with the order of the learned Single Judge on the above factual matrix of the case and on sympathetic consideration of the case of the appellant/writ petitioner.

21. For the foregoing reasons, the order of the learned Single Judge made in W.P. (MD) No.14622 of 2012, dated 14.02.2018 is liable to be set aside.

22. Accordingly, this Writ Appeal is allowed and the order of the learned Single Judge made in W.P. (MD) No.14622 of 2012, dated 14.02.2018 is set aside. The first respondent herein is directed to provide suitable employment as per the educational qualification of the first daughter of the appellant/petitioner namely Sridevi, who is aged about 30 years as on date within a period of eight weeks from the date of receipt of a copy of this judgment. No costs.

[C.V.K., J.]

[J.S.N.P., J.]



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Index: Yes/No

Speaking/Non Speaking

Neutral citation: Yes/No

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To

1. Tamil Nadu State Transport
Corporation (Madurai) Ltd,
Nagercoil Division, Ranithottam,
Nesamany Nagar, Nagercoil – 629 001.

2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli Division, Tirunelveli.



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