



W.P.(MD)No.25677 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.25677 of 2022
and W.M.P.(MD).No.19784 of 2022

S.Muthukumar

... Petitioner

Vs.

1. The Chief Engineer,
Department of High Ways,
Guindy, Chennai-600 025.

2. The Superintending Engineer,
Department of High Ways Construction and Maintenance,
Tirunelveli - 2.

3. The Divisional Engineer,
Department of High Ways Construction and Maintenance,
Tenkasi-627 811.

4. The Assistant Divisional Engineer,
Department of High Ways Construction
and Maintenance (H and R.W),
Tenkasi-627 811.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to impugned order passed by the third respondent vide in Ku.No. 1691/2015/AA2/ dated 01.09.2022 and quash the same as illegal and consequently directing the respondents to provide the appointment to petitioner under the ground of compassionate within a time frame as may be fixed by this Court.



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For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.M.Ramesh,
Government Advocate

ORDER

Heard Mr.T.Indrachithu, learned counsel appearing for the petitioner and Mr.M.Ramesh, learned Government Advocate appearing for the respondents.

2. This Writ Petition has been filed seeking to quash the impugned order passed by the third respondent in Ku.No. 1691/2015/AA2, dated 01.09.2022 and consequently directing the respondents to provide appointment to the petitioner on compassionate grounds.

3. The petitioner's father died on 28.07.1989 while he was in service as Salaipaniyalar under the fourth respondent Department, leaving behind his family members. The petitioner herein made an application before the fourth respondent seeking for appointment on compassionate grounds and his application was considered by the respondents and he was directed to produce relevant documents to the fourth respondent. Since the petitioner was minor at that time, he was not persuaded the matter further. But immediately after attaining the age of 18 years, the petitioner made another application to the



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respondents on 28.09.2006. But the same was not considered. Thereafter, the petitioner filed a Writ Petition before this Court in W.P.(MD).No.5817 of 2012 seeking direction to the respondents to consider his representation dated 28.09.2006. However, this Court dismissed the Writ Petition on 25.04.2012. Thereafter, the petitioner's online application dated 27.05.2021 was considered by respondent Nos.2 and 4 and on 08.12.2021, proposal was prepared by the fourth respondent and it was resubmitted to the third respondent. On 16.12.2021, the third respondent forwarded the same to the second respondent and on 04.01.2022, the second respondent forwarded the same to the first respondent for issuing appointment order. But, unfortunately, on 01.09.2022, the third respondent issued impugned order to the petitioner and rejected the petitioner's application by stating that as per the letter of the first respondent, dated 16.08.2022, he was not considered for compassionate appointment.

4. Mr.T.Indrachithu, learned counsel appearing for the petitioner submitted that there is no reason assigned as to why the petitioner's application has been rejected.

5. However, Mr.M.Ramesh, learned Government Advocate appearing for the respondents submitted that the application made by the petitioner seeking compassionate appointment has not been submitted within three years.



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6. In the Government Order in G.O.(Ms).No.120, Labour and Employment Department, dated 26.06.1995, the Government has already clarified that the said Government Order is applicable only for those cases where employees died after the said Government Order and it is not applicable to those employees who died prior to the said Government Order. Since the father of the petitioner died in the year 1989, the respondents ought to have considered the application without assigning the reason of limitation and passed appropriate orders on other merits.

7. In view of the above, the Writ Petition is **allowed** and the impugned order passed by the third respondent in Ku.No. 1691/2015/AA2, dated 01.09.2022 is set aside and the matter is remanded back to the file of the third respondent and the third respondent is directed to pass orders on other merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

06.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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R.N.MANJULA, J.

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