



W.P.(MD)No.25657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.25657 of 2024

K.Amarnath

... Petitioner

vs

1.The Principal Secretary/The Director,
TamilNadu State Transport Corporation Limited,
Secretariat,
Fort St. George,
Chennai-09.

2.The Managing Director,
TamilNadu State Transport Corporation Limited,
By pass Road,
Madurai-625 010.

3. The General Manager,
TamilNadu State Transport Corporation Limited,
By Pass Road,
Madurai-625 010.

4. The Branch Manager,
TamilNadu State Transport Corporation Limited,
By Pass Road,
Madurai-625 010.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Respondent No.3 and quash the same as illegal, consequently directing the Respondent No.3 to appoint the petitioner in any suitable post on compassionate ground, treating his application for compassionate ground dated 22.09.2023 in continuation of his mother's application dated September 2008 in a time bound manner.

For Petitioner	: Mr.A.Abdulkabur
For Respondent No.1	: Mr.A.Baskaran Additional Government Pleader
For Respondent Nos.2 to 4	: Mr.S.Raja Standing Counsel

ORDER

The instant writ petition has been filed by the son of the deceased conductor, who was working in the respondent Transport Corporation, challenging the order passed by the third respondent, wherein, his request for compassionate appointment has been rejected relying upon G.O.Ms.No. 18, dated 23.01.2020.



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2. The petitioners father who was working as a conductor had passed away on 09.08.2008. The petitioner's mother had made an application seeking compassionate appointment on 09.11.2009, and so far no orders have been passed by the respondent transport corporation. On 31.01.2021, the mother of the writ petitioner has made an application to substitute the name of the writ petitioner in her place and sought compassionate appointment for her son. That request has been rejected under the impugned order dated 03.09.2024, on the ground that as per G.O.Ms.No.18, Labour and Employment Department dated 23.01.2020, the alternative application has to be filed within one year from the date of filing of application for compassionate appointment. This order is under challenge in the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, on similar said of facts, learned single judge of this Court in the order dated 30.01.2024, in W.P.(MD).No.24310 of 2023, relying upon G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) Department dated 08.03.2023, has allowed the writ petition on the ground that the said Government Order has been notified only on 08.03.2023 and the alternative application having been filed in the year 2021 has to be considered.



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4. Per contra, the learned Counsel appearing for the respondents has contended that when the alternative application was filed by the writ petitioner, G.O.Ms.No.18, dated 23.01.2020 was prevailing and as per the said Government Order, an alternative application was not filed within a period of one year from the date of the present application of compassionate appointment.

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. The Hon'ble Supreme Court of India in a judgement reported in 2020 (7) SCC Page No.617 in Para 19 held that the authorities have to rely upon the Government Order that is prevailing on the date of taking decision with regard to providing compassionate appointment. In the present case, the authorities have passed the impugned order on 03.09.2024, and therefore they have to naturally rely upon G.O.Ms.No.33, Labour Welfare and Skill Development Department, dated 08.03.2023. This Government Order was notified only on 08.03.2023. Even before the said



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notification was issued, an application seeking alternative appointment has been filed by the mother of the writ petitioner in favour of the writ petitioner on 31.01.2021. Therefore, this Court is of the considered opinion that the respondent authorities were not right in relying upon the G.O.Ms.No.18, dated 23.01.2020.

7. In view of the above said facts, the order impugned in this writ petition is set aside and the respondents are directed to provide compassionate appointment to the writ petitioner, substituting his name in the place of his mother and pass orders on the basis of the seniority.

8. With the above said observations, this writ petition stands allowed.

No costs.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

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To

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