



W.P.No.11532 of 2012 and M.P.No.1 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM:

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

W.P.No.11532 of 2012 and M.P.No.1 of 2012

Judgment reserved on 20.02.2025	Judgment pronounced on 25.02.2025
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K.C.Chinnaiah

...Petitioner

.....Vs.....

1.The Government of Tamil Nadu,
rep.by The Secretary,
Municipal Administration Department,
Fort St.George, Chennai - 9.

2. The Corporation of Chennai,
rep.by its Commissioner,
Ripon Building,
Chennai - 3.

.....Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the respondents 1 and 2 and quash the proceedings in Po.Thu.Na.Ka.No.E.10/49387/2007 dated 20.06.2008 of second respondent and direct the respondents 1 and 2 to appoint the petitioner as sweeper or equivalent job there into in the Corporation of Chennai.



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For Petitioners : Mr.R.S.Mohan
for M.Ashok

For R1 : Mr.M.Murali,
Government Advocate

For R2 : Mr.S.Gopinathan,
Standing counsel

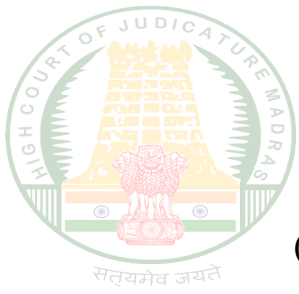
ORDER

This Writ Petition has been filed seeking a compassionate appointment following the death of the petitioner's father, namely the late Kakimudi Chenchaiyah. The application for such an appointment was rejected, leading to the filing of this Writ Petition.

2. Initially, the writ petition was dismissed for default, but it was subsequently restored by an order dated 10.09.2024.

3. The brief facts are as follows:

(i) The petitioner's father, late Kakimudi Chenchaiyah, was employed as a sweeper in the dumping section at the Corporation of Chennai, 127th Division, C.I.T. Nagar, Nandanam Zone No. IX, Unit 26. He died on 26.09.1998 in Chennai while still in service.



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(ii) The petitioner's father had two wives: 1) Venkata Subbamma, and

2) Thirupalamma. Venkata Subbamma had one son and one daughter, while Thirupalamma had one son and two daughters. The petitioner was born to Thirupalamma on 11.11.1981. After the death of the petitioner's father, Kakimudi Chenchaiyah, the second wife, Thirupalamma, applied for death benefits and pension on behalf of her husband.

(iii) When approaching the Corporation authorities, it was discovered that the deceased, Kakimudi Chenchaiyah, had two wives, and both wives' names were registered in the service records. The Corporation authorities then required the petitioner's mother, Thirupalamma, to obtain a No Objection Certificate from the first wife, Venkata Subbamma, and her children. After a mutual understanding between both wives, the Corporation decided that the service benefits and family pension of the deceased Chenchaiyah would be given to the first wife, Venkata Subbamma, and the compassionate appointment of sweeper would be given to Thirupalamma, the second wife. Consequently, Venkata Subbamma received all service benefits, except for a death relief fund of Rs. 20,000, payable from the date of Chenchaiyah's death, and also received the family pension until her death.



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After the death of Venkata Subbamma, the family pension was given to K.C. Chinnaiah, the petitioner, until he reached the age of 25. The family pension payments stopped on 10.11.2006.

(iv) The petitioner's mother, Thirupalamma, applied for the post of sweeper or any equivalent post in the Corporation of Chennai by an application dated 28.11.1989. The Accounts Officer (Public), Chennai Corporation, replied by letter No. Po.Su.Na.Ka.No.3/48653/88, dated 05.06.1992, requesting Thirupalamma to produce a correct date of birth certificate and to clarify the correct date of birth.

(v) Since Thirupalamma was illiterate and had no personal guidance, she could not proceed further. Therefore, the petitioner, on 15.05.2000, applied to the Mayor of Chennai Corporation, stating that he was about 8 years old at the time of his father's death on 26.09.1998, and thus, was unable to apply for appointment at that time. The petitioner, now 20 years old as of 15.05.2000, requested a compassionate appointment.

4. The petitioner's application for a compassionate appointment was submitted within 3 years of attaining majority (i.e., by 15.05.2000). Prior to

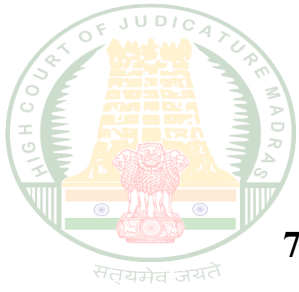


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this, the mother's application for compassionate grounds had been kept pending. The petitioner subsequently made applications to the Assistant Commissioner, the Superintending Engineer, and the C.M. Cell, and there are various communications regarding these applications, as seen in the typed set of papers.

5. A counter has been filed. In the counter, the Corporation contends that the application was made more than 3 years after the death of the deceased employee, but it does not deny the factual position that the petitioner's application dated 15.05.2000 was submitted within 3 years of his attaining majority, as acknowledged by the Corporation on 17.09.2000 when the petitioner was 20 years old.

6. It is settled law that if the son or daughter of a deceased employee is a dependent and was a minor at the time of death, they must apply for compassionate appointment within 3 years of attaining majority.



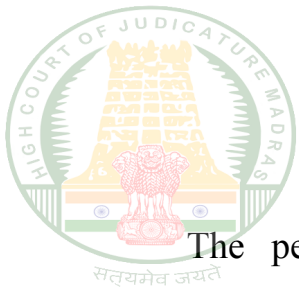
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7. In the present case, the petitioner made his application within 2 years of attaining majority. This application is still pending and has not been considered, even though various other representations were made by the petitioner, and reports have been called for, but no orders have been passed.

8. The impugned order refers to the grievance petition submitted by the petitioner to the Hon'ble Chief Minister's Grievance Cell.

9. There is no denial by the Corporation regarding the earlier application submitted by the petitioner, as evidenced in the typed set of papers. Therefore, I find that the petitioner's application for compassionate grounds, made on 15.05.2000 (within two years of attaining majority), has not been considered by the Government. Instead, the petitioner's grievance addressed to Chief Minister's Cell, citing non-consideration of the earlier application.

10. It is acknowledged that the petitioner is the son of the deceased, and his father was employed with the Corporation and died while in service.



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The petitioner's mother was granted a pension, and she applied for compassionate appointment, but her application was not processed. By the time the petitioner attained majority, he applied for compassionate grounds, but the application is still pending. Therefore, the reason given in the impugned order shows a lack of application of mind by the concerned authorities, and as such, the order is hereby set aside.

11. I find that the petitioner has made out a valid case for compassionate appointment, and hence, respondents 1 and 2 are hereby directed to appoint the petitioner to a suitable post within eight (8) weeks from the date of receipt of this order.

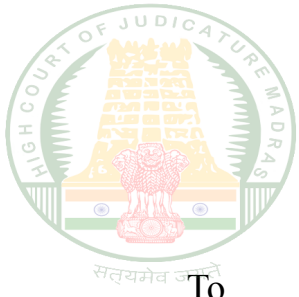
12. With the above directions, this Writ Petition is allowed. No costs. Consequently, the connected M.P. is closed.

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Index : Yes / No

Neutral Citation : Yes/No



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RMT.TEEKAA RAMAN, J.

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