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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN**

**W.P.No. 2317 of 2024**

S.Vaideeswaran

... Petitioner

**..Vs..**

1. The Government of Tamil Nadu  
Rep. By its Principal Secretary to Government  
Rural Development and Panchayat Raj Department  
Fort St. George  
Chennai 600 009.
2. The Director of Rural Development and Panchayat Raj  
Panagal Building  
Saidapet,  
Chennai – 600 015.
3. The Commissioner  
Panchayat Union, Veerapandi  
Salem.
4. The Personal Assistant to District Collector,  
Collectorate Office (Development Division)  
Salem District.

... Respondents

**PRAYER:** Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records of the fourth respondent bearing



Na.Ka.No.6934/2023/Ni3 dated 19.06.2023 and quash the same and further direct the respondents to appoint the petitioner on compassionate grounds.

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|                                |                                                    |
|--------------------------------|----------------------------------------------------|
| For Petitioner                 | :: Ms. T.Hemalatha                                 |
| For RR 1, 2 & 4                | :: Mr. V.Nanmaran<br>Additional Government Pleader |
| For 3 <sup>rd</sup> Respondent | :: No appearance                                   |

**ORDER**

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the fourth respondent dated 19.06.2023 in Na.Ka.No. 6934/2023/Ni3 and quash the same.

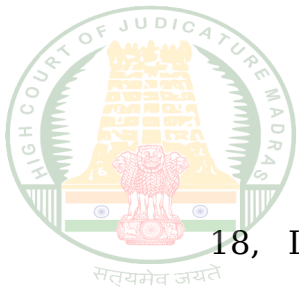
2. In the affidavit filed in support of the Writ Petition, it had been stated that the father of the writ petitioner, A.Sampath was working as Office Assistant at Veerapandi Panchayat Union, Rural Development Department, Salem and died while in service on 09.08.2018. On that date, the petitioner was a minor and was studying in 8<sup>th</sup> standard. On 01.03.2021 when the petitioner had completed his 10<sup>th</sup> standard, his mother had given a representation seeking appointment of the petitioner as Junior Assistant on



compassionate grounds. The entire issue would have come to a close had the respondents considered that particular representation of the mother of the petitioner. However, that representation by the mother of the petitioner kept circulating around the office of the respondents, and was finally forwarded to the District Collector/the fourth respondent. On 21.06.2021, the fourth respondent rejected the claim on the ground that the petitioner had not completed 18 years of age.

3. The fourth respondent cannot place that fact to the disadvantage of the petitioner or of the mother of the petitioner since it cannot be expected that children of a public servant would always cross the age of 18 years and be eligible to be considered for any suitable post and would never been less than 18 years on the date when the father or mother dies. That reasoning cannot withstand the scrutiny of this Court.

4. Thereafter, the third respondent, however issued a communication on 25.03.2022 to the mother of the petitioner asking her to furnish certain documents. A further representation was made on 12.06.2023 enclosing all the documents and requesting employment on compassionate basis. The impugned order was passed on 19.06.2023 rejecting the claim by placing reliance on G.O.Ms.No.



18, Labour and Employment Department dated 23.01.2020 and G.O.Ms.No. 33 Labour Welfare and Skill Development Department dated 08.03.2023. Both those aforementioned Government Orders stipulate that an application seeking employment on compassionate basis should be filed within a period of three years from the date of death of the public servant.

5. In the counter affidavit filed in support of the Writ Petitioner, it had been contended that the petitioner herein had applied seeking to be appointed on compassionate grounds on 01.03.2013. It had been further contended that the petitioner was less than the age of 18 years and after he completed the age of 18 years, he had made an application on 12.06.2023 which was three years later than, the date of death of his father.

6. The facts are as follows:-

The father of the petitioner, who was working as Office Assistant at Veerapandi Panchayat Union, Rural Development Department, Salem, died while in service on 09.08.2018. If employment on compassionate basis is to be sought by any surviving member of the family, such application should be filed within three



years from the date of death. The mother of the petitioner had applied on 01.03.2021 seeking employment on behalf of the petitioner herein. The petitioner was less than age of 18 years. After he had completed 18 years of age, he again applied on 12.06.2023. Comparison of the dates show that the mother had applied within three years from the date of death of her husband and the petitioner had applied within three years from the date of that particular application of the mother and within three years from the attaining the age of majority. The reasoning of the respondents therefore has to be rejected by this Court.

7. The learned counsel for the petitioner in this connection also placed reliance on the consistent stand taken by this Court in this regard, namely, that if the children are aged less than 18 years, then the mother can apply and must apply within a period of three years and the child for whom such employment sought should apply within three years from the date of attaining the age of majority. This position has been stated in the Judgment of a Division Bench reported in **MANU TN/0635/2009 [TNEB and another Vs. S.Suder]**. The reasoning of th Division Bench is as follows:-



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*"4. In this context, a Division Bench of this Court in a judgment reported in The Chief Engineer/Personnel, T.N.E.B., & another Vs. S.Suder reported in MANU/TN/0635/2009 was held as follows: "4.In the judgment reported in 2001 Writ L.R.601 in the case of "Ramadoss.D. Vs. The Chief Engineer, T.N.E.B.", this Court (D.Murugesan,J) directed the consideration of the application made within a period of three years after attaining the majority by placing reliance on the very same Circular in B.P.No.46, dated 13.10.1995. 5.Subsequently, in the judgment reported in 2002(4) L.L.N.1132, (D.Murugesan,J.), in the case of "P.Ravi V.Chief Engineer (P), T.N.E.B.", also, the very same Circular was relied upon and the application for appointment on compassionate grounds was directed to be considered. 6.Justice P.D.Dinakaran, has also taken the very same view by following the very same Circular dated 13.10.1995, in W.P.No.19673 of 2003, in the order dated 23.09.2003, in the case of "J.Jayakaran Vs. The Superintending Engineer, Theni Electricity Distribution Circle, Theni" and the application for appointment on compassionate grounds was directed to be considered. 7.Justice K.Govindarajan has also taken the same view in Writ Petition No. 13099 of 2003, order dated 30.10.2003, in the case of "G.Muthamilselvan V. The*



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*Chief Engineer (Personnel) and Anr." 8.Justice F.M.Ibrahim Kalifulla has also taken the same view in the decision reported in 2004(3) CTC 120, (2004) MLJ 238 in the case of "Meer Ismail Ali.T. V. The Tamil Nadu Electricity Board". We are told that the order in the said case of "Meer Ismail Ali" was confirmed in the Writ Appeal by the Division Bench in W.A.No.4008 of 2004, by judgment dated 1.12.2004 and as against the said judgment dated 1.12.2004, the Special Leave Petition in Civil Appeal No.6387 of 2005, was also dismissed by the Supreme Court, by judgment dated 4.4.2005.""*

8. It is thus seen that the impugned order suffers owing to non appreciation of a fundamental fact that the mother of the petitioner had actually applied on 01.03.2021 seeking employment on behalf of the petitioner herein and the petitioner after he had attained the age of majority had again applied on 12.06.2023. The impugned order is set aside and the matter is remitted back to the Office of the District Collector for fresh consideration of the application filed by the petitioner herein. The respondents may examine all surrounding circumstances and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order.



9. The Writ Petition stands allowed. Consequently, connected

Miscellaneous Petition stands closed. No order as to costs.

17.02.2025

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Principal Secretary to Government  
The Government of Tamil Nadu  
Rural Development and Panchayat Raj Department  
Fort St. George  
Chennai 600 009.
2. The Director of Rural Development and Panchayat Raj  
Panagal Building  
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**C.V.KARTHIKEYAN, J.,**

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