



W.P.No.11832 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.04.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.11832 of 2023

A.Jayanthi

...Petitioner

Vs.

1. The Managing Director
Tamilnadu State Transport Corporation (Salem)
Ltd.,
Ramakrishna Salai,
Salem – 636 007

2. The General Manager,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Bharathipuram, Dharmapuri District – 636 705

...Respondents

Prayer:

Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to provide suitable employment to the petitioner under the scheme of compassionate appointment pursuant to petitioner's representation dated 28.01.2023.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.K.Raja



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents to provide suitable employment to the petitioner under the scheme of compassionate appointment pursuant to petitioner's representation dated 28.01.2023.

2. According to the petitioner, on 29.01.2020, the petitioner's husband was appointed as driver on daily wages at Dharmapuri vide order dated 29.01.2020 by the 2nd respondent. Thereafter, on 25.02.2020, a training program was conducted by the Head Office of the Tamilnadu State Transport Corporation, Dharmapuri Branch and in the said Training Hall, the petitioner's husband had also participated in the said training, namely, refresher training and at that time, he fainted on the training hall. Thereafter, the petitioner's husband was taken to the Government Hospital, Dharmapuri for treatment and the Doctor said that he was brought dead due to heart attack. After the death of the petitioner's husband, the petitioner is facing very hard situation to lead a routine life, hence the petitioner had made an application for compassionate appointment within 3 years from the date of death of her husband and thereafter, she made a representation to the respondents 1 and 2 on 18.10.2021 & 18.07.2022, later,

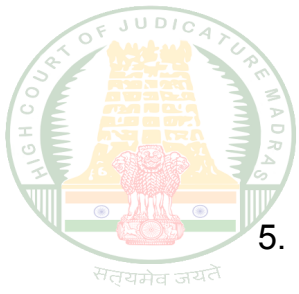


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she also sent a remainder dated 28.01.2023, but no action was taken by the respondents, hence this petition.

3.The learned counsel for the petitioner reiterated the facts narrated above and in support of his contention has relied on the Judgment of the Hon'ble Supreme Court of India in C.A.No.1311/1997 dated 6.12.2000 [Srinath A. And Others Vs. A.P.State Road Transport Corporation and Others] and the Judgment of the Hon'ble Division Bench of this Court in W.P.No.5980 of 2004 dated 03.08.2012 [R.Lakshmi Vs. The Chief Engineer (Personnel), Chennai and another]

4. Per contra, the learned counsel appearing for the respondents would submit that as per Clause 4 of G.O.(MS) No.18, Labour and Employment (Q1) Department dated 23.01.2020, the legal heirs of deceased persons, who are under temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularised are not eligible for consideration of compassionate appointment. Further, the Board of Directors are the competent authority to consider the case of the petitioner and the respondents cannot pass any orders, thereby pleaded to dismiss the petition.



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5. Heard the learned counsel on either side and perused the documents placed on record.

6. It is pertinent to point out that the petitioner's husband, namely P.Adhiyaman (Late) was engaged in the Corporation as Reserve Driver vide order dated 04.07.2015. Thereafter, the petitioner's husband was appointed as Daily Paid Driver vide order dated 29.01.2020 and the petitioner's husband died on 25.02.2020 due to sudden heart attack. Hence it is crystal clear that the petitioner's husband was a daily paid driver at the time of his death.

7. At this juncture, it is relevant to note that as per G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the guidelines laid down as under:-

“Persons whose legal heirs are not eligible for consideration under Compassionate Ground Appointment:

(i) Persons who are retained in service under Fundamental Rule 56(1)(c) after the date of superannuation.

(ii) Persons who are under Temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularized

(iii) Persons who do not come under regular time scale of pay.”

Further, the amendment have also been obtained in the Government Gazette published on June 7th 2023 vide G.O.Ms.No.33, Labour Welfare and Skill



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Development (Q1) Department, dated 08.03.2023 as follows:

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“ (i)----

(ii)---

(iii) *A person who is appointed on casual, ad-hoc or contract basis on consolidated pay or daily wages;*

(iv) *A person who is not placed under regular time scale of pay;*
and

(v).....”

Therefore, the petitioner's husband was not a regular employee and hence the petitioner is not entitled for compassionate appointment, as per the above said G.Os. Even assuming that this Court were to direct the respondents to consider the case of the petitioner, the respondents cannot take any decision, because the case of the petitioner has to be considered only by the Board of Directors and not by the respondents.

7. In view of the above, this Court directs the petitioner to furnish the application/representation to the Board of Directors, Tamilnadu State Transport Corporation, Salem within a period of four weeks from the date of receipt of a copy of this order and the said Board of Directors, Tamilnadu State Transport Corporation, Salem shall consider the same and pass appropriate orders on merits and in accordance with law within a period of sixteen weeks thereafter.



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In the result, the Writ Petition is disposed of. No costs.

01.04.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Board of Directors,
Tamilnadu State Transport Corporation,
Salem
2. The Managing Director
Tamilnadu State Transport Corporation (Salem)
Ltd.,
Ramakrishna Salai,
Salem – 636 007
2. The General Manager,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Bharathipuram, Dharmapuri District – 636 705



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V.BHAVANI SUBBAROYAN, J.

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