



W.P.No.13385 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.13385 of 2023

A.Hajimohamed

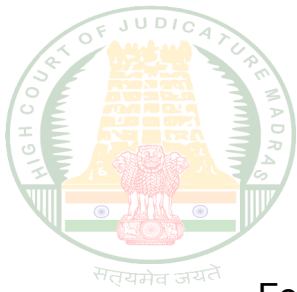
...Petitioner

Vs.

1. The Government of Tamilnadu
rep. By its Secretary to Government
Social Welfare and Women Empowerment Dept.,
Fort St.George, Chennai
 2. The Director of Social Welfare and Women Empowerment,
o/o the Directorate of Social Welfare,
No.1, Panagal Maligai Building, 2nd Floor,
Jennis Road, Saidapet, Chennai – 600 015
 3. The District Project Officer,
(Integrated Child Development Services Scheme)
District Project Office, Villupuram
 4. Child Development Project Officer,
Villupuram (Urban), Villupuram
- ...Respondents

Prayer:

Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent to consider for appointment on compassionate ground by considering the petitioner's representation dated 06.04.2022 within the time stipulated by this Court.



W.P.No.13385 of 2023

WEB COPY

For Petitioner

: Mr.V.S.Jagadeesan for
Mr.E.Suganthan

For Respondents

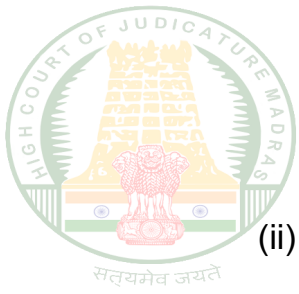
: Mr.R.V.Dinesh Rajkumar
Additional Government Pleader

ORDER

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus directing the 2nd respondent to consider for appointment on compassionate ground by considering the petitioner's representation dated 06.04.2022 within the time stipulated by this Court.

2. The brief facts of the case, as averred by the petitioner, are as follows:-

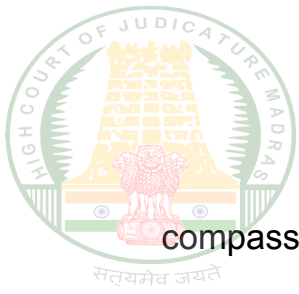
(i) The petitioner's mother, viz., Rabitha joined the Tamilnadu Public Services as Typist in the Child Development Project Office, Villupuram (Urban), Villupuram on 19.02.2013 and continued her service till her death. The petitioner's mother is the sole breadwinner of the family at that time and petitioner's father did not have any permanent job and salary to run the family . Also, the petitioner's elder brother is a special child.



W.P.No.13385 of 2023

(ii) After the petitioner's mother's death, the petitioner's father, submitted a representation dated 24.08.2016, within 3 years from the death of petitioner's mother to the 4th respondent requesting for compassionate appointment to the petitioner upon completion of 18 years of age. Also, the petitioner submitted a petition dated 15.02.2021 to the Social Welfare Officer, 3rd respondent that the petitioner has attained majority in the year 2021. The 4th respondent vide letter dated 17.02.2021 called upon to submit necessary documents in support of his claim for compassionate appointment. The 2nd respondent passed an order dated 30.03.2022 rejecting the claim of the petitioner quoting that the age of the petitioner was only 13 years at the time of representation made by the petitioner. The 1st petitioner sent a representation dated 06.04.2022 to the 2nd respondent seeking appointment under compassionate ground detailing that at the time of death of his mother, his father did not possess adequate educational qualification, hence petitioner's father recommended the 1st petitioner for compassionate appointment and he also clarified in the representation that the appointment may be made upon attaining majority by the 1st petitioner. Till date, there was no response from the respondents, hence the present Writ Petition.

3. The learned counsel for the petitioner would submit that the impugned order has been passed without appreciating the object of appointment on

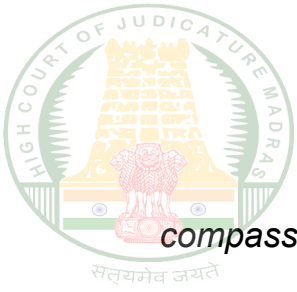


W.P.No.13385 of 2023

compassionate ground, which is to provide sufficiently to the family of the deceased. Further, the 2nd respondent has passed an order without considering the certificate issued by the Tahsildar upon the family situation of the petitioner and without proper application of mind, he has passed an erroneous order of rejection.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submits that compassionate appointment is not a vested right and the dependent member of the family of a deceased employee is entitled only to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State, as per decision of the **Hon'ble Supreme Court reported in (2019) 3 SCC 653 (State of Himachal Pradesh and another Vs. Shashi Kumar)**. It is therefore clear that any request for compassionate appointment should be considered strictly in accordance with the prevailing scheme or policy framed by the Government, de hors of the said scheme or policy, the aspirant could not have any right to claim compassionate appointment.

5. Further, the learned Additional Government Pleader contends that the 2nd respondent had rejected the appointment of the petitioner on the basis of G.O.(Ms) No.18, wherein it is stated that *"Age limit for those eligible under*



W.P.No.13385 of 2023

compassionate ground appointment: The minimum age is 18 years at the time of submitting application for compassionate ground appointment". Also, it is clear that as per the scheme prevailing on the date of consideration of the application, a minor was not eligible to submit an application seeking compassionate appointment. Therefore, even though the application seeking appointment was filed within a period of three years by the petitioner through his father, the same is an invalid application in view of the fact that such an application has been presented on behalf of an ineligible person to get an appointment, thereby pleaded to dismiss the petition.

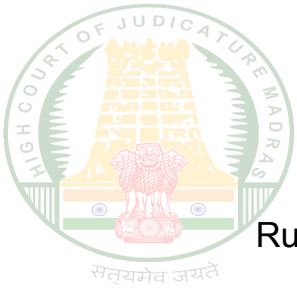
6. It is seen from the records that the petitioner's mother died on 16.05.2016 while she was in service. At the time of death, her son, viz., the petitioner was minor and only 13 years old and hence he would not get any appointment. Therefore, petitioner's father has immediately applied in the year 2016 for an appointment under compassionate ground, but the application was not considered. The petitioner's elder brother is also a special child and needs a support and petitioner's father is also not having any employment. According to the petitioner, he studied 10th standard and completed Diploma in Electronics and Communication in Sri Venkatachalabathi Polytechnic College, Vadakuruchi Palayam, Villupuram and now the petitioner is eligible to be considered for



W.P.No.13385 of 2023

appointment under compassionate grounds. The petitioner has sent various applications and the same has been rejected by the respondents stating that 'at this juncture same cannot be considered and rejected'. Again the petitioner has given a representation on 06.04.2022 and the same has to be considered on various grounds as per existing G.O.Ms.No.18.

7. According to the respondents, the appointment on compassionate grounds cannot be considered beyond 3 years from the date of death. Therefore, on that ground based on the erstwhile rule, as per G.O.Ms.155 Labour and Employment (Ku1) Department dated 10.12.2014, the petitioner's case was considered and rejected. According to the Hon'ble Division Bench Judgment of this Court in W.A.(MD) No.479 of 2024 dated 01.04.2024, that practically when such an employee dies, the son or daughter or the dependents other than the spouse will be minor. Therefore it will take some years to reach the majority, within which three years period from the date of death of the employee would be over. Therefore, beyond three years period, even though the dependent /legal heirs would become eligible to seek compassionate appointment based on the educational qualification they acquired, those cases would not be considered taking into account the three years period. According to respondents, the difficulties have been overcome by the state government and issued



W.P.No.13385 of 2023

Rule 6 of the said Rule, which reads as follows:-

WEB COPY

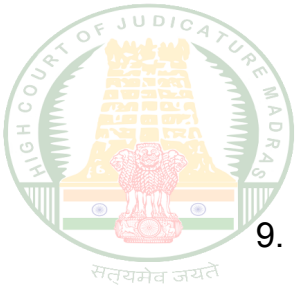
“6. Age limit (1) Notwithstanding anything contained in these rules governing anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, on the date of application for appointment.

(a) the spouse of the deceased or medically invlitated Government servant or the parent of the deceased government servant, must have completed fifty years of age and

(b) the son, daughter, brother or sister of the deceased or medically invalidated Government servant must not have completed forty years of age.

(2) Nothwithstanding anything contained in these rules governing the post for which appointment on compassionate grounds is to be made, there shall be no minium age limit for the applicant on the date of application for appointment.”

8. It is to be further seen that the Rule has been given post dated effect from 08.03.2023, here the case has not been considered at all till date, therefore, this Court is of the view that the petitioner's representation should be considered as per the orders of this Court referred supra and by taking note of G.O.Ms.No.33 Welfare Department dated 8.3.2020 and pass appropriate orders.



W.P.No.13385 of 2023

9. On going through the facts of the case, it is seen that the petitioner's family is in penurious condition, however, the same shall be ascertained by the authorities/Village Administrative Officer by holding the enquiry and thereafter, proceed with the said representation and pass appropriate orders with regard to compassionate appointment on merits and in accordance with law, within a period of twelve weeks from the date of receipt of copy of a order.

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 Government of Tamilnadu
rep. By its Secretary to Government
Social Welfare and Women Empowerment Dept.,
Fort St.George, Chennai
2. The Director of Social Welfare and Women Empowerment,
o/o the Directorate of Social Welfare,
No.1, Panagal Maligai Building, 2nd Floor,
Jennis Road, Saidapet, Chennai – 600 015
3. The District Project Officer,
(Integrated Child Development Services Scheme)
District Project Office, Villupuram
4. Child Development Project Officer,
Villupuram (Urban), Villupuram



WEB COPY



W.P.No.13385 of 2023

V.BHAVANI SUBBAROYAN, J.

ssd

W.P.No.13385 of 2023

01.04.2025