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W.A.No.233 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR. JUSTICE **G. ARUL MURUGAN**

Writ Appeal No.233 of 2024

1. The Director of Medical and Rural Health
Services and Family Welfare,
DMS Compound, Teynampet,
Chennai.

2. The Deputy Director of
Medical and Rural Health Services
and Family Welfare, Tiruvannamalai,
Tiruvannamalai District.

3. The Block Medical Officer,
Primary Health Centre, Karapattu,
Tiruvannamalai District.

... Appellant/
Respondent

Vs.

G. Vinoth Kumar

...Respondent/
Petitioner

PRAYER: The Writ Petition is filed under Clause 15 of the Letters Patent against the order dated 02.01.2023 made in W.P.No.19018 of 2023 passed by this Court.



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For Appellants : Mr.Bindran
Additional Government Pleader

For Respondent : Mr.S.Arockia Mani

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JUDGMENT

*(Judgment of the Court was delivered by **R. SUBRAMANIAN, J.**)*

The direction to provide an appointment on compassionate ground issued by the learned single Judge after quashing the order of the rejection dated 20.03.2013 is challenged in this appeal.

2. The father of the respondent was working as Block Health Statistician with the appellants and he died on 17.02.1998. The mother of the respondent made an application. Since she was blind, she was advised to apply later. Therefore, the respondent applied for being considered for compassionate appointment on 05.02.2023 after the lapse of 15 years from the date of death of his father.



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3. The said claim was rejected by the appellants on the ground that it is beyond three years from the date of the death of the father.

Contending that he had applied within three years after attaining majority and therefore, he should be considered for compassionate appointment, the respondent moved this Court.

4. The learned single Judge granted the prayer relying upon a judgment in *R.Sridevi Vs. Labour and Employment Department* reported in *2011 SCC Online Mad 1523* and a judgment of the Hon'ble Supreme Court in *Civil Appeal No.2039 of 2006, dated 30.03.2010* in the *Chief Engineer, Tamil Nadu Electricity Board & another Vs. Indiraniammal*.

5. We heard Mr.Bindran, learned Additional Government Pleader and Mr.Arockia Mani, learned counsel for the respondent.

6. Mr.Bindran, learned Additional Government Pleader would contend that application is filed after three years from the date of attaining majority and the learned single Judge has not taken note of the judgment of the Full Bench of this Court in *Nandini Dev & others -Vs-*



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Secretary to Government of Tamilnadu Health and Family Welfare &

others reported in **2024 (4) LLJ 347**. He would also draw our attention to the recent pronouncement of the Hon'ble Supreme Court in ***Canara Bank Vs. Ajith Kumar G.K.*** reported in **2025 SCC Online 290**. The Full Bench's judgment was rendered on a reference made noting the conflict between two Division Bench judgments of this Court, one in ***A.Kamatchi-Vs-Chairman, Tamilnadu Electricity Board reported in 2013 (2) CWC 758*** and another in ***E.Ramasamy -Vs- Tamilnadu Electricity Board (W.A.No:336 of 2003 etc)*** The Full Bench of this Court after examining the law held that the judgment in ***Ramasamy*** which upholds the fixation of three years period for making an application for compassionate appointment lays down the correct position of law and the judgment in ***Kamatchi***, wherein an application filed after the applicant becomes a major does not lay down the correct position of law.

7. Therefore, the law as declared by the Full Bench of this Court is to the effect that the an application filed beyond three years from the date of death of the Government Servant will be treated as time barred subject ofcourse to the power of the Government to relax the condition in rarest



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of rare cases.

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8. The Hon'ble Supreme Court has also considered the issue in ***Canara Bank*** cited supra. The Hon'ble Supreme Court has issued several directions regarding the compassionate appointment. In ***Sanjay Kumar Vs. the State of Bihar*** reported in (2000) 7 SCC 192, the Hon'ble Supreme Court had held that there cannot be a reservation of vacancy till such time the applicant becomes a major after number of years unless there are some specific provisions.

9. The Hon'ble Supreme Court in ***Canara Bank Vs. Ajith Kumar G.K.*** considered the case, where the employee died in the year 2001 and an application was made much later. After referring almost all the judgments on the issue of compassionate appointment concluded that the provisions of the scheme providing compassionate appointment will have to be strictly adhered to. However, the Hon'ble Supreme Court invoking Article 142 of the Constitution of India had granted compensation in the said case. So the law declared as of today is that the provisions of the scheme providing compassionate appointment should be adhered to strictly and the Court cannot go beyond the scheme and direct



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appointment on compassionate ground.

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10. Unfortunately, we find that the judgment of the Hon'ble Supreme Court was not brought to the notice of the learned single Judge, who decided the Writ Petition. We, therefore, allow this Writ Appeal and set aside the order passed by the learned single Judge dated 02.01.2023 in W.P.No.19018 of 2023. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M, J.) (G.A.M, J.)
21.03.2025

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and
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