



W.A.(MD)No.545 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

<i>Judgment Reserved On</i>	<i>Judgment Pronounced On</i>
08.04.2025	28.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.545 of 2025

S.Nelson Leo Kevin Soosai

... Appellant

-Vs-

1.The Joint Director of School Education
(Personnel),
Directorate of School Education,
DPI Complex, College Road,
Chennai.

2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Pudukottai District.

3.The District Educational Officer,
Office of the District Educational Officer,
Pudukottai District.

4.The Block Educational Officer,
Block Educational Office,
Arimalam, Pudukottai District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.7072 of 2024, dated 16.04.2024.



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For Appellant
For Respondents

: Mr.S.Kumar
: Mr.J.Ashok
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

This writ appeal is filed against the order dated 16.04.2024 passed in W.P.(MD)No.7072 of 2024.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 08.07.2022, issued by the 3rd respondent and consequently, to direct the respondents to provide suitable employment to the petitioner on the compassionate ground.

3.The brief facts as stated in the writ petition are that the writ petitioner's mother Mrs.L.Sahaya Amali Rani had worked as Headmistress in Panchayat Union Elementary School, Ayinkudi and while in service she died on 24.12.2015 due to cancer. She left behind the writ petitioner's father, the writ petitioner's elder brother and the writ petitioner as legal heirs. The writ petitioner is a physically disabled person with 50% disability. The writ petitioner's father



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and brother are unemployed. At the time of the death of the writ petitioner's mother, the writ petitioner was aged about 16 years and he was pursuing 10th standard. The writ petitioner preferred an application on 23.12.2016 within three years from the date of death of his mother with all relevant documents, but the same was not considered on the ground that the writ petitioner was minor. The contention of the petitioner that after attaining the age of 18, on 19.03.2018, the writ petitioner submitted a representation to the 3rd respondent to grant compassionate appointment by annexing the original application. The 3rd respondent processed the application and recommended the same to the 1st respondent. On 20.10.2020, the writ petitioner submitted a representation to the 3rd respondent. But based on the instructions of the 1st respondent, the 3rd respondent has rejected the application stating that at the time of making the subsequent representation, 3 years have already been lapsed and so the application cannot be considered. The contention of the petitioner is that the application made within three years period, the said application was returned on the ground that the writ petitioner was a minor. Subsequently, when the writ petitioner submitted the representation after attaining majority in continuation of the original application, it was rejected by the impugned order, dated 08.07.2022, stating that three years have already lapsed. The impugned order, dated 08.07.2022, was not



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communicated to the writ petitioner for nearly two years. Only after great difficulty, the writ petitioner got the photo copy of the impugned order in the month of March 2024 in person from the office of the 3rd respondent. Though the impugned order was passed as early as on 08.07.2022, it was not sent to the writ petitioner. Hence, the writ petition was filed.

4. The 3rd respondent has filed counter affidavit stating that the application for compassionate appointment was rejected in the light of G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020. The G.O.Ms.No.18 supersedes all the earlier orders passed from 1972. As per the said G.O., the application for compassionate ground appointment should be made within 3 years from the date of death of the government servants. In the present case, admittedly, the writ petitioner's mother died on 24.12.2015 and the writ petitioner, after attaining majority submitted the application for compassionate appointment only on 20.10.2020, nearly after five years. Therefore, in view of the above settled legal position the application of the petitioner was rejected on the ground that the writ petitioner submitted application beyond the period of 3 years from the date of death of his mother. The further contention of the 3rd respondent is that the compassionate employment cannot be granted after a lapse of a



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reasonable period specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner. The compassionate employment cannot be claimed and offered after the lapse of time and after the crisis is over. Hence, the 3rd respondent prayed to dismiss the writ petition.

5. After considering the rival submissions, the Writ Court held that the petitioner has re-presented the application after attaining majority and at that point of time, the three years mandatory time for filing the application got lapsed. Though at the time when the order was passed the writ petitioner was a major, the application has not been filed within three years and the writ petitioner had not chosen to represent the application immediately, after it was returned to him. Hence, the Writ Court dismissed the writ petition. Aggrieved over the same, the present writ appeal is preferred by the writ petitioner.

6. Heard Mr.S.Kumar, the learned Counsel appearing for the appellant and Mr.J.Ashok, the learned Additional Government Pleader appearing for the respondents and perused the records.



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7. The primary contention of the writ petitioner is that his mother died on 24.12.2015 and his first application was submitted on 23.12.2016 within three years from the date of death of his mother but the said application was rejected since the petitioner was minor and directed him to approach after attaining majority, hence the petitioner approached the respondents on 19.03.2018 after attaining majority. However the respondents deny the receipt of any such application dated 19.03.2018. But the learned Counsel appearing for the petitioner stated that the said application was submitted on 19.03.2018 and the Block Educational Officer forwarded it on 26.08.2019.

8. Even though the writ petitioner had vehemently contended that he submitted an application dated 19.03.2018, in the writ affidavit there is no specific averment regarding the application dated 19.03.2018. In the Writ Court order also there is no specific reference about the application dated 19.03.2018. It is seen the alleged application is enclosed in the typed set of papers, on perusing the same the writ petitioner had not mentioned any date in the said application. But there is a seal of “block educational office”, it is not serving the purpose since it is not stating the designation of the officer.



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9. The further contention of the petitioner is that after receipt of the application the same was forwarded by the BEO to DEO vide proceedings dated 26.07.2019. On perusal of the proceedings it is **not referring** to the date of the application as “19.03.2018”. Further the proceedings is numbered as “Na.Ka.”. In the earlier proceedings it is mentioned as “Oo.Mu.” (means one year proceedings only) and not “Na.Ka.” (present year proceedings only), which creates a doubt. Therefore, for the above discussion this Court is of the considered opinion the said application dated 19.03.2018 was not submitted, it is created for the purpose of filing the present case. More so when the petitioner fails to state the date of application as 19.03.2018 anywhere in the writ affidavit.

10. Both the petitioner and the respondents admits that another application dated 20.10.2020 was submitted. But the said application is beyond three years, thereby the petitioner had submitted beyond the prescribed period.

11. The object of granting compassionate appointment is to enable the family to tide over the sudden crisis. However, it cannot be claimed as a matter of right. The issue is already considered by Hon’ble Full Bench of this



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सत्यम् Court in W.P.(MD) Nos.7016 of 2011 and batch vide judgment, dated 11.03.2020, and it has been held that “the application for compassionate appointment must be made within stipulated time from the date of death of the deceased employee and the grant of compassionate appointment do not constitute a reservation of a post in favour of a member of the family of the deceased employee, hence there is no general right which can be asserted to the effect that a member of the family who was a minor at the time of death would be entitled to claim compassionate appointment upon attaining majority. Where the rules provide for a period of time within which an application has to be made, the operation of the rule is not suspended during the minority of a member of the family. Further held that if there is long lapse of time since the date of death of the deceased employee, then the sense of immediacy for seeking compassionate appointment would cease to exist and this would be a relevant factor in determining need of such appointment. Also held the Court should not stretch the provision by liberal interpretation beyond permissible limits on humanitarian grounds”. In the present case, the father was alive and unemployed, he did not seek any compassionate appointment. The first son was major at the time of death of the mother and he did not seek any compassionate appointment. This fact would clearly indicate the family was not in indigent circumstances and the family could sustain and tide over the immediate



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financial crisis. The petitioner had no right to assert he is entitled to compassionate appointment upon attaining majority. In other words, employment assistance on compassionate appointment is only a concession, extended to an eligible member of the family and it is not a right, which can be exercised by a minor on attainment of majority. Therefore, the petitioner is not entitled to compassionate appointment.

12. For all these reasons, the writ appeal is dismissed and the order passed by the Writ Court is confirmed. No Costs.

[J.N.B., J.] [S.S.Y., J.]
28.04.2025

Index : Yes / No

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