



WA(MD)No.704 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.01.2025

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MS.JUSTICE R.POORNIMA**

WA(MD)No.704 of 2022

D.R.Karthik Kumar

... Appellant

Vs.

- 1.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board (TWAD),
31, Kamarajar Salai,
Chepauk, Chennai – 600 005.
- 2.The Secretary cum General Manager,
Tamil Nadu Water Supply and Drainager
Board (TWAD),
31, Kamarajar Salai,
Chepauk, Chennai – 600 005.
- 3.The Chief Engineer,
Tamil Nadu Water Supply
and Drainager Board (TWAD),
Madurai Region, Ganesh Nagar,
Madurai – 625 007.
- 4.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board (TWAD),
SR cum P.M.Circle,
Sivagangai.



WA(MD)No.704 of 2022

5.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board (TWAD),
RWS Division, Ramanathapuram.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the impugned order passed in WP(MD)No.23012 of 2021 dated 09.03.2022 on the file of this Court and allow the writ appeal and thus render justice.

For Appellant : Mr.C.Jeganathan

For Respondents : Mr.Vijayakarthiskeyan

ORDER

Heard both sides.

2.The unsuccessful writ petitioner is the appellant in this writ appeal.

The father of the writ petitioner was working as Assistant in TWAD Board and he passed away while in service on 08.10.2009. The petitioner's mother submitted an application immediately thereafter seeking appointment on compassionate grounds for the elder son D.R.Pradeep Kumar. She then submitted a fresh application on 15.12.2010 seeking appointment on compassionate grounds for the second son, namely, D.R.Karthik Kumar, the



WA(MD)No.704 of 2022

appellant herein. The request was rejected vide order dated 15.04.2016 on the ground that when once an application had been submitted seeking compassionate appointment for one legal heir, the second application seeking appointment for another legal heir cannot be entertained. Challenging the said rejection order, the appellant herein filed WP(MD)No.23012 of 2021. The said writ petition was dismissed by the learned Single Judge vide order dated 09.03.2022. Questioning the same, this writ appeal has been filed.

3.The learned counsel for the appellant reiterated all the grounds set out in the memorandum of grounds of appeal. He drew our attention to the order dated 18.11.2024 made in WA(MD)No.2350 of 2024 and called upon this Court to set aside the order impugned in this writ appeal and grant relief as prayed for.

4.Per contra, the learned standing counsel submitted that the impugned order is well reasoned and that it does not call for interference. He pointed out that the petitioner's father passed away in 2009 and that more than 16 years have elapsed and that the scheme of compassionate appointment does not envisage such delayed appointments. He called upon this Court to dismiss the writ appeal.



WA(MD)No.704 of 2022

5. We carefully considered the rival contentions and went through the materials on record. Mere efflux of time cannot be cited to defeat a legitimate claim for appointment on compassionate grounds. As per the terms of the scheme, the application for appointment on compassionate grounds must be submitted within three years. In this case, the employee passed away on 08.10.2009. The application was submitted immediately thereafter. It is true that some steps were taken in June 2010 to process the application. But there was no fruitful result. No appointment order was issued in favour of the elder son Thiru.Pradeep Kumar. The wife of the deceased employee submitted a fresh application on 15.12.2010 seeking appointment for the second son Thiru.D.R.Karthik Kumar who was about to complete Diploma in EEE. The second application was also submitted within three years. The reason set out in the rejection order is that there is no provision in the government orders for considering a second application. The Hon'ble Division Bench vide order dated 18.11.2024 in WA(MD)No.2350 of 2024 held as follows :

“2. The respondent herein is the younger son of a Salesman, who had expired while in service under the second appellant Society. The said Salesman died on 13.12.2013 and his first son, Sivakumar, had made an application on 18.05.2015, which is within the period of three years as contemplated under the scheme for compassionate



WEB COPY



WA(MD)No.704 of 2022

appointment. However, the appellants herein had kept the application pending for almost ten years, which had prompted him to seek for compassionate appointment for the second son/respondent herein. Apparently, the inaction on the part of the appellants in considering the original application seeking for compassionate appointment for the deceased employee's first son, must have caused some inconvenience or other disqualification for the first son to take up the appointment and therefore, the respondent herein would be justified in seeking appointment for himself instead of his brother.

3. The learned Single Judge had also found that the Department had not chosen to reject the original application of the petitioner's brother and had kept it pending and therefore, the respondent herein would be justified in seeking for substitution of his name in the place of his brother. Since this situation has arisen only owing to the inaction on the part of the appellants herein, the request for substitution of the respondent's name in the application seeking for compassionate appointment would be justified. As such, we do not find any ground to interfere with the order of the learned Single Judge.”

In the case on hand, the appellant stands on a better footing. The application was submitted well within three years. In this view of the matter, we set aside the impugned orders. We direct the respondents 1 and 2 to appoint the



WA(MD)No.704 of 2022

appellant herein in an appropriate post as per the terms of the scheme. Such an appointment order shall be issued within a period of three months from the date of receipt of copy of this order. This writ appeal is allowed. No costs.

[G.R.S., J.] & [R.P., J.]
27.01.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
SKM



WEB COPY



WA(MD)No.704 of 2022

G.R.SWAMINATHAN, J

and

R.POORNIMA, J.

SKM

WA(MD)No.704 of 2022

27.01.2025