



W.A(MD).Nos.972 and 936 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 01.09.2025

PRONOUNCED ON : 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).Nos.972 & 936 of 2020
and
CMP(MD).Nos.5270 & 5157 of 2020

1.The District Collector
Madurai District
Madurai

2.The Tahsildar
Taluk Office
Vadipatti
Madurai District

...Appellants/Respondents
in both appeals

Vs

A.Senthilkumar

....Respondent/Petitioner
in both appeals

Prayer in WA(MD).No.972 of 2020: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 28.02.2020 in WP(MD).No.3698 of 2020.

Prayer in WA(MD).No.936 of 2020: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 28.02.2020 in WP(MD).No.6584



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of 2016.

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(In both appeals)

For Appellants : Mr.S.R.A.Ramachandran
Additional Government Pleader

For Respondent : Mr.P.R.Prithiviraj

COMMON JUDGMENT

(Made by **R.VIJAYAKUMAR,J.**)

The instant writ appeals have been preferred by the respondents in the writ petitions challenging the orders passed in WP(MD).Nos.6584 of 2016 and 3698 of 2020.

2.The respondent herein had filed the above two writ petitions challenging the two orders passed by the appellants dated 26.02.2016 and 19.06.2014 wherein the request of the petitioner seeking compassionate appointment was rejected on the ground that such an application came to be filed after a period of three years from the date of death of the Government servant.

3.The writ Court relying upon the judgment in ***WP.No.26343 of 2012 (M.Sathish Kumar Vs. The Director of School Education and others)*** dated 23.11.2016 has proceeded to allow the writ petitions primarily on the ground that the application seeking compassionate appointment has been presented



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by the minor within a period of three years from the date of attaining majority. These orders are put to challenge in the present writ appeals.

4.The learned Additional Government Pleader appearing for the appellants herein relying upon *G.O.(Ms).No.120 Labour and Employment Department dated 26.06.1995* contended that the application seeking compassionate appointment should be made within a period of three years from the date of death of the Government servant. This Government order was in force on the date when the application was presented. Since the application was made after a period of three years from the date of death of the Government servant, the application has to be necessarily rejected. He also relied upon a Division Bench judgment of this Court reported in **2022 SCC Online Mad 4510 (Commissioner, Madurai Corporation and another Vs. G.Vasuki Bharathi)** wherein the Division Bench was pleased to hold that an application for compassionate appointment, even if it is presented by a minor, it should be done within a period of three years from the date of the death of the Government servant.

5.The learned Additional Government Pleader had further submitted that on the date of death of the Government servant, apart from the widow of the deceased employee, three other eligible family members were available for seeking compassionate appointment. However, the family has waited for



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more than three years to apply for compassionate appointment for the youngest son. Hence, he prayed for reversing the orders of the writ Court.

6.Per contra, the learned counsel appearing for the respondent/writ petitioner submitted that the father of the petitioner who was employed as a Village Assistant has passed away on 22.09.2008 and he had attained majority on 14.05.2012 and immediately on 09.07.2012, he had made an application seeking compassionate appointment. The writ Court had relied upon a decision wherein it was held that the application presented within three years from the date of attaining majority should be accepted and therefore, he prayed for sustaining the orders passed by the writ Court.

7.Heard both sides and perused the material records.

8.The petitioner's father who was employed as a Village Assistant has passed away while in service on 22.09.2008. At the time of his death, his eldest son namely A.Muthukumar was a major. Neither the wife of the deceased employee nor his eldest son made an application seeking compassionate appointment. The other two daughters of the deceased employee had also attained majority within a period of three years from the date of death of the employee. No application was made by them also. Finally an application seeking compassionate appointment was made on 09.07.2012 by the writ petitioner on the ground that he had attained majority only on 14.05.2012.



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9. When eligible family members of the deceased employee were available, both on the date of death of the employee or they became eligible within a period of three years from the date of death of the employee, the family has not chosen to make any application. They had waited for nearly four years to make such an application. If more than one member of the family is eligible to seek compassionate appointment, it is always open to them to choose any one among them by giving no objection certificate to one of the family member. However, such a choice has to be exercised within a period of three years from the date of death of the Government servant. They cannot wait till a preferred legal heir attains majority. The scheme for providing compassionate appointment is only to help the family to tide over indigent circumstances that may arise due to the sudden death of the head of the family. When the family could wait for a period of four years, so that the youngest legal heir should attain majority, it clearly discloses that the family is not in indigent circumstances.

10. The Hon'ble Supreme Court in a judgment reported in **(2000) 7 SCC 192) (Sanjay Kumar Vs. State of Bihar and others)** in Paragraph No.3 has held as follows:

“3.....It is also Significant to notice that on the date when the first application was made by the petitioner on 2.6.1988, the petitioner was a minor and was not eligible for appointment.



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This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there is some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.”

11.The judgment of the Hon'ble Supreme Court was followed by a Co-ordinate Bench of this Court in a judgment reported in **2016 (5) CTC 125 (The Inspector General of Prisons, Tiruchirappalli District and anothers Vs. P.Marimuthu)**. Paragraph Nos. 37 and 38 are extracted as follows:

37.....A member of the family, otherwise eligible, on the date of death of the employee, has to submit the application within three years from the date of death or in a given case, if he was a minor at the time of death aged between 15 to 18 years, he can also submit an application, within three years from the date of death, on attaining majority.

38. Needless to state that for entry into any service in the State, the minimum age is 18 years, and no minor can be appointed to any service. Therefore, he cannot make any application for appointment to any post in service and no post can be kept vacant for him, till he attains majority. Posts which fall vacant have to be filled up as per the recruitment rules. Employment assistance on compassionate appointment, is only a concession, extended to an eligible member of the family, to apply for a suitable post, in the service, in which, the employee/Government servant died in harness and it is not a



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right, which can be exercised by a minor on attainment of majority.”

12.The statutory Rules regulating the compassionate appointments were introduced in the year 2023 in the State of Tamil Nadu by way of “Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules 2023”. As per Rule 6(2), there is no minimum age limit for making an application seeking compassionate appointment. Therefore, only from the year 2023 onwards, an application could be accepted from a minor for compassionate appointment. In the present case, the Government servant had passed away in the year 2008 and the application was made in 2012. The rejection orders were passed in the year 2014 and 2016 and on these dates, there were no Rules permitting a minor to make an application seeking compassionate appointment.

13.In view of the judgment of the Hon'ble Supreme Court cited supra in **(2000) 7 SCC 192**, when there are no specific provisions for accepting an application from a minor, the order passed by the authority rejecting the application beyond a period of three years from the date of death of the Government servant cannot be found fault with.

14.The judgment of the Hon'ble Supreme Court cited supra, was not brought to the notice of the writ Court and therefore, we are inclined to set aside the said orders.



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15.In view of the above said deliberations, the orders of the writ Court

are hereby set aside and both the writ appeals are allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

(C.V.K.J.,)

(R.V.J.,)

04.09.2025.

Index :Yes/No
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