



W.A(MD)No.1675 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1675 of 2025
and
C.M.P(MD)No.9372 of 2025**

- 1.The State represented by
The Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai.
- 2.The District Forest Officer,
O/o.The District Forest Officer,
Theni Division,
K.R.R.Nagar,
Housing Board Colony,
Theni, Theni District.
- 3.The Wildlife Warden,
O/o.the Wildlife Warden Office,
Megamalai Forest Division,
Theni,
Theni District.

... Appellants /
Respondents

Vs.

S.Asmatha Hasina Fathima

... Respondent /
Writ Petitioner



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed in W.P(MD)No.13076 of 2017 dated 03.09.2024 on the file of this Court and allow the above Writ Appeal.

For Appellants : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent : Mr.Mohammed Suhail

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

The State is on Appeal challenging the order dated 03.09.2024 made in W.P(MD)No.13076 of 2017 filed by the respondent herein. Thiru.M.S.S.Hameed was working as Forester in Theni Division and passed away on 12.08.2000 while in service. At the time of his demise, the writ petitioner / respondent herein was aged about 4½ years. It is claimed that Hameed's wife had submitted representation on 29.09.2000 seeking compassionate appointment for the writ petitioner who was then 4 ½ years old child. Obviously, a 4 ½ years child cannot be granted employment. The wife of the deceased probably wanted to keep a post reserved and vacant for the writ petitioner till she attained majority. The writ petitioner attained majority on



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16.03.2014. Thereafter, a fresh representation was given on 05.06.2014

seeking appointment on compassionate ground. This request was rejected by

the District Forest Officer, Theni Division vide order dated 13.09.2016.

Challenging the same, the respondent herein filed W.P(MD)No.13076 of 2017.

The order impugned in the Writ Petition was set aside and the Writ Petition was

allowed in the following terms:

“9. By total non-application of mind to the well settled law and despite the fact that the petitioner had attained majority only on 06.03.2014, the respondents have rejected the petitioner’s request seeking for compassionate appointment. Necessarily the impugned orders will have to be quashed and the writ petition will have to be allowed.

10. Accordingly, the impugned orders dated 11.06.2014 passed by the second respondent and the consequential orders dated 29.07.2015 and 30.09.2016 passed by the third respondent are hereby quashed and this writ petition is allowed by directing the respondents 2 and 3 to reconsider the petitioner’s application seeking for compassionate appointment to the petitioner on compassionate grounds without quoting the three years period and the said exercise shall be completed by the second and third respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”



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2. The learned Additional Advocate General appearing for the State reiterated all the contentions set out in the grounds of appeal. Relying on the Full Bench decision made in ***W.P(MD)No.7016 of 2011*** etc batch and the decision of the Hon'ble Supreme Court of India reported in ***(2021) 20 SCC 707 (Secretary to Government, Department of Education (Primary) & Others Vs Bheemesh @ Bheemappa)***, he contended that the reckoning date should be the date of death of the employee and not any other circumstance.

3. Per contra, the learned counsel for the writ petitioner submitted that the learned single Judge has passed an equitable order and that it does not call for interference. He argued that an application had been submitted well in time and that it was not disposed of by the department. Therefore, a fresh application submitted by the writ petitioner should be seen as a continuation of the original application. He placed heavy reliance on the decision of the Hon'ble Division Bench made in ***W.A(MD)No.1063 of 2022 (The Superintendent of Police, Ramanathapuram District, Ramanathapuram Vs H.Sridevagi)*** dated 20.09.2022. The Hon'ble Division Bench in the said decision had held that when the applicant was a minor at the time of death of the father and when the application has been made within time, the applicant after attaining majority



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should be granted compassionate appointment. He called upon this Court to sustain the order of the learned single Judge and dismiss the Writ Appeal.

4.We carefully considered the rival contentions and went through the materials on record.

5.The Hon'ble Full Bench in ***W.P(MD)No.7016 of 2011*** etc batch had held as follows:

“(vii) Provisions for 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.”

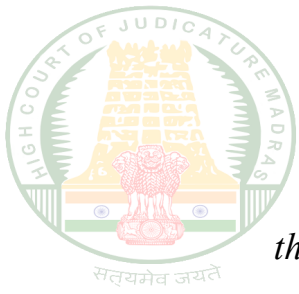
The Hon'ble Supreme Court also in the decision reported in ***(2021) 20 SCC 707 (Secretary to Government, Department of Education (Primary) & Others Vs Bheemesh @ Bheemappa)*** had held as follows:



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“20. The important aspect about the conflict of opinion is that it revolves around two dates, namely, (i) date of death of the employee; and (ii) date of consideration of the application of the dependant. Out of these two dates, only one, namely, the date of death alone is a fixed factor that does not change. The next date namely the date of consideration of the claim, is something that depends upon many variables such as the date of filing of application, the date of attaining of majority of the claimant and the date on which the file is put up to the competent authority. There is no principle of statutory interpretation which permits a decision on the applicability of a rule, to be based upon an indeterminate or variable factor. Let us take for instance a hypothetical case where 2 Government servants die in harness on 1-1-2020. Let us assume that the dependants of these 2 deceased Government servants make applications for appointment on 2 different dates say 29-05-2020 and 02-06-2020 and a modified Scheme comes into force on 1-6-2020. If the date of consideration of the claim is taken to be the criteria for determining whether the modified Scheme applies or not, it will lead to two different results, one in respect of the person who made the application before June 1, 2020 and another in respect of the person who applied after June 01, 2020. In other words, if two employees die on the same date and the dependants of those employees apply on two different dates, one before the modified Scheme comes into force and another



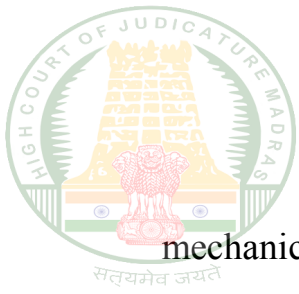
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thereafter, they will come in for differential treatment if the date of application and the date of consideration of the same are taken to be the deciding factor. A rule of interpretation which produces different results, depending upon what the individuals do or do not do, is inconceivable. This is why, the managements of a few banks, in the cases tabulated above, have introduced a rule in the modified scheme itself, which provides for all pending applications to be decided under the new/modified scheme. Therefore, we are of the considered view that the interpretation as to the applicability of a modified Scheme should depend only upon a determinate and fixed criteria such as the date of death and not an indeterminate and variable factor.”

Therefore, the reckoning date can only be the date of death of the employee and not any other. Therefore, we have to necessarily hold in view of the aforesaid binding decisions that any contra ruling is not good law.

6.The learned Additional Advocate General would strongly contend that there is nothing on record to show that the writ petitioner's mother had submitted an application in time. In fact, even copy of the original application dated 20.09.2000 is not available. There is also no proof that it was ever submitted. Since in the fresh application submitted by the writ petitioner, there is a reference to the so-called earlier application dated 20.09.2000,

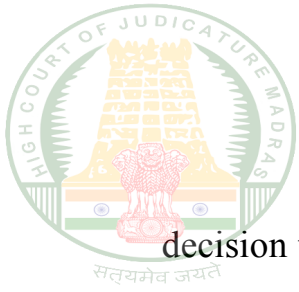


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mechanically it has been referred in the correspondence from the department

also. Be that as it may, even according to the writ petitioner the original application was not for the wife of the employee. On the other hand, the application is said to have been made for the benefit of the writ petitioner who was hardly 4 ½ years old when her father passed away. It is well settled that an appointment cannot await the attainment of the applicant's majority. We have been consistently holding that the right to seek of compassionate appointment is not a heritable right to be considered and it is not one more source of recruitment. The Hon'ble Supreme Court had also held that compassionate appointment cannot be construed as a one of the conditions of service. One can seek compassionate appointment only in terms of the parameters and norms laid down in the relevant scheme by the department or the Government. There is no vested right to seek appointment on compassionate grounds.

7. These aspects have not been taken note of by the learned single Judge. The learned single Judge did not apply the ratio laid down by the Hon'ble Full Bench. The Division Bench decision in ***W.A(MD)No.1063 of 2022 (The Superintendent of Police, Ramanathapuram District, Ramanathapuram Vs H.Sridevagi)*** dated 20.09.2022 relied on by the writ petitioner cannot be taken as good law because there is no reference in the said



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decision to earlier Full Bench decision of this Court. In this view of the matter,
the order passed by the learned single Judge is set aside.

8.This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
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