



W.A.(MD)No.1370 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

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

W.A(MD)No.1370 of 2024
and
C.M.P.(MD)No.10618 of 2024

1.The District Collector,
Karur District, Karur.

2.The Block Development Officer,
Krishnarayapuram,
Karur District.

... Appellants

Vs.

J.Mahendiran

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.1012 of 2024, dated 08.04.2024.

For Appellants :Mr.Veerakathiravan
Additional Advocate General
assisted by M/s.D.Farjana Ghoushia
Special Government Pleader

For Respondent :Mr.Y.Prakash



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JUDGMENT

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

This Writ Appeal is filed by the respondents in the writ petition challenging the order passed in Writ Petition W.P.(MD)No. 1012 of 2024, dated 08.04.2024.

2. The Writ Petition was filed for Writ of Certiorari to quash the order dated 21.11.2023 passed in Na.Ka.Pa.Va.3/5999/2023 by 1st respondent and consequently to direct the respondents in writ petition to consider the application of the writ petitioner dated 20.11.2023 for compassionate appointment.

3. The brief facts as stated in the affidavit filed along with the writ petition in W.P.(MD)No.1012 of 2024 are that the petitioner's father Late. P. Jeyaraman, was employed as a Panchayat Assistant in Pappakkapatti Village. While in service unfortunately the petitioner's father died on 26.10.2015, leaving behind his wife, his mother, his son (the petitioner herein) and his sister as his legal heirs. At the time of his death, the petitioner was 15 years and his



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sister was 12. After the petitioner's father death, the family was in precarious financial situation, as his father was the sole breadwinner. The petitioner's family has no movable or immovable property. Hence the petitioner submitted an application seeking compassionate employment. The said application was rejected since the petitioner was minor at the time of application. The respondents had referred to G.O.Ms.No.155 Labour and Employment Department dated 10.12.2014 while rejecting the application. Subsequently the petitioner had submitted representations in the year 2018 and 2019 and the same was also rejected on the ground of age of the petitioner. After the petitioner attained majority, the petitioner submitted an application 08.02.2021. However, this application was also rejected by the respondents, on 18.02.2021, on the basis that it was made three years after his father's death. The contention of the petitioner is that the same is contrary to the relevant rules and circulars. Hence, the petitioner send representation dated 20.11.2023, seeking appointment but the petitioner's request was again rejected, with reference to G.O.Ms.No.18 Labour and Employment Department dated 23.01.2020, stating ineligibility due to age criteria and also stated



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that the application is submitted after three years from the date of death of the petitioner's father.

4. The 1st respondent had filed a counter affidavit stating that at the time of making first application, the petitioner was minor. Then after attaining majority the petitioner had submitted application, but by the time the three years period from the date of death of the father had lapsed. Hence the petitioner is not eligible for compassionate appointment.

5. After considering the rival submissions the Writ Court had held that petitioner's application was rejected on the sole ground that the petitioner was a minor on the date of death of his father. But the impugned order does not speak anything about the indigenous circumstances of the family of the deceased employee, hence directed the respondents to grant compassionate appointment.

6. Aggrieved over the same the respondents had filed the present writ appeal. The contention of the respondents/ appellants



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is that even though the petitioner submitted an application within three years, but the petitioner was minor at the time of submitting the application, hence the petitioner was not entitled to compassionate appointment. When the petitioner submitted application after attaining majority, by the time the prescribed three years period had lapsed, therefore the petitioner is not entitled to compassionate appointment.

7. After considering the rival submissions this Court had given its anxious consideration. The Hon'ble Full Bench of Madras High Court in W.P. (MD) Nos.7016 of 2011 and batch by judgment dated 11.03.2020 has considered all the previous judgments and discussed in detail after taking note of various Government order / guidelines in relation to compassionate appointment and has held as under:

“(viii) 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



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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 Full Bench had held that the legal heir is entitled to compassionate appointment if the application is submitted within three years from the date of death of the employee. If the legal heir is minor at the time of submitting application, then the legal heir is not entitled to compassionate appointment. Further held any application submitted after attaining majority, but by the time the three years period had lapsed, then the legal heir is not entitled to compassionate appointment. The three years period cannot be calculated from the date of attaining majority, but ought to be calculated from the date of death of the deceased employee. The concept of compassionate appointment is to tide over the immediate financial distress on the death of the employee. And the post cannot be kept vacant until the minor attains majority.

8. In the present case the date of death of the father is on 26.10.2015. The three years period to file the application was over



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by 25.10.2018. The petitioner had attained majority in the year 2019. Based on the judgment of Hon'ble Full Bench, the petitioner had attained majority but by the time the three years period had lapsed, therefore the petitioner is not entitled to compassionate appointment.

9. It is pertinent to state that the mother of the petitioner was entitled to compassionate appointment, but she had not chosen to apply for the same. The compassionate appointment cannot be considered as one of the modes of recruitment. It is only to tide over the immediate financial distress of the family of the deceased employee which had occurred on the sudden demise of the sole bread winner. The compassionate appointment post cannot be kept endlessly vacant for the family of the deceased employee.

10. The Learned Single Judge had not considered the judgment of the Hon'ble Full Bench. Hence this Court is interfering in the impugned order and the impugned order is liable to be set aside and accordingly set aside. The writ appeal is allowed and consequently the writ petition is dismissed.



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11. For the reasons stated above, the Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
14.02.2025

Index : Yes / No

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