

W.A.(MD)No.582 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

<i>Judgment Reserved On</i>	<i>Judgment Pronounced On</i>
19.03.2025	28.04.2025

CORAM:

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

W.A(MD)No.582 of 2025
and
C.M.P.(MD).No.4390 of 2025

1.The Director,
The National Institute of Technology,
Tiruchirappalli-15.

2.The Registrar,
The National Institute of Technology,
Tiruchirappalli-15.

... Appellants

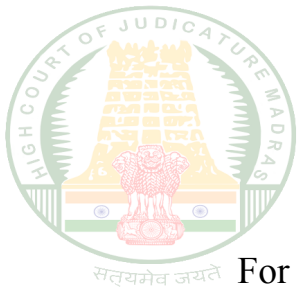
-Vs-

1.R.Muthukumar

2.The Secretary,
Government of India,
Ministry of Personnel, Public Grievances
and Pension,
Department of Personnel and Training,
North Block,
New Delhi.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.29926 of 2023, dated 19.06.2024.



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For Appellant
For R1 to R3

:Mrs.J.Maria Roseline
:Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Karthick

For R2

:Mr.G.Thalaimutharasu
Central Government Standing Counsel

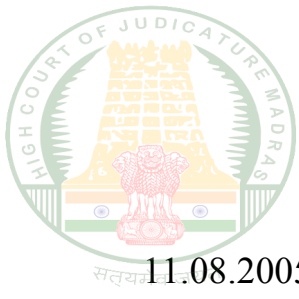
JUDGMENT

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

This writ appeal is filed by the respondents in the writ petition against the order dated 19.06.2024 passed in W.P.(MD)No.29926 of 2023.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned announcement, dated 30.08.2023, of the 3rd respondent and the consequential impugned order, dated 01.12.2023 and to direct the 3rd respondent to appoint the petitioner on compassionate appointment.

3. The brief facts are that the writ petitioner's father who worked as Mechanic 'A' Grade in the Estate Maintenance Department died on 06.07.2005 while in service. The writ petitioner's mother had filed an application on



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11.08.2005 seeking compassionate appointment to her son who is the writ petitioner, since the writ petitioner was minor in the relevant point of time. The petitioner's mother had been approaching the respondents frequently by submitted reminders on 25.04.2018, 25.07.2018, 11.12.2019, 20.10.2021, 20.04.2022, 10.11.2022, 21.12.2022 and 23.12.2022. And the petitioner had submitted application on 06.09.2023, 01.02.2023. However, the first application is submitted within a period of 3 years on 11.08.2005, from the date of death of the petitioner's father. Thereafter the 3rd respondent directed the petitioner to submit application along with the relevant documents on or before 31.07.2018 vide proceedings dated 20.06.2018 and the petitioner submitted his application on 25.07.2018, but the respondent neither rejected nor granted appointment. Again the 3rd respondent directed the petitioner to submit application on or before 15.10.2021 vide proceedings dated 28.09.2021 and the petitioner submitted application on 20.10.2021. Since the same was not considered, the writ petitioner filed W.P.(MD)No.412 of 2023 and the Court vide order dated 06.01.2023 directed the respondents to consider the petitioner's mother application dated 23.12.2022 and pass orders. Then the petitioner filed Cont.Pet.(MD)No.1302 of 2023 and in the contempt proceedings the respondents had submitted the application was rejected vide order dated 01.12.2023. In the said order after



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considering the writ petitioner's mother's application, dated 23.12.2022 seeking compassionate appointment for his son, the respondents rejected the same since the said application is not in response to the notification dated 23.08.2022. Further the impugned order also states that the petitioner had not submitted fresh online application through website with required particulars in response to the notification dated 23.08.2022. The contention of the petitioner is that respondents have considered the writ petitioner's application, dated 23.12.2022 but his original application was submitted by his mother as early as 11.08.2005 itself which is three years from the date of death of the father. The writ petitioner contended that the point-based scheme for compassionate appointment has come into force in the year 2023 and is applicable only for future applications and not for the writ petitioner who had made application at the earlier point of time.

4. The contention of the appellants is that no compassionate appointment scheme was made from 2007 till 2023. The Regional Engineering College had become National Institute of Technology and the rules have been framed only in the year 2023. Therefore, the writ petitioner is bound to apply through online as per the new scheme.



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5. After considering the rival submissions, the Writ Court has held that in the year 2018 itself, the writ petitioner's application was processed and he was directed to submit certain documents. Thereafter, he was informed that depending upon seniority list, the appointment will be issued. But the respondents failed to assign seniority number to the writ petitioner. The 3rd respondent's communication, dated 20.06.2018, would show that even though there are no rules, the respondents were accommodating certain compassionate appointments by considering the applications of the legal heirs. Therefore, the respondents ought to have considered the writ petitioner's applications which was pending for more than 2 decades instead of asking the writ petitioner to apply through online. For the above reasons, the writ petition was allowed and the Writ Court directed the respondents to consider the petitioner's application by adopting the conservative method which was a practiced prior to 2023 scheme and pass orders within a period of four weeks. Aggrieved over the same, the present writ appeal is preferred by the respondents 2 and 3 in the writ petition.

6. The contention of National Institute of Technology, the appellant herein is that the institution was functioning as Regional Engineering College until June 2003, thereafter it became National Institute of Technology and



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administered by National Institute of Technology Act, 2007. There was no scheme after the enactment of “Act 2007” and no vacancies were notified from 2007 to 23.08.2023, hence the petitioner’s application submitted by the mother could not be considered. This Court is of the considered opinion that when there is no scheme from 2007 to 2023, then the appellants cannot be forced to consider petitioner’s application dehors scheme. It is settled principles of law that the compassionate appointment would be granted based on the scheme alone. If no scheme then the employer cannot be forced to grant compassionate appointment dehors scheme.

7. The appellants contended several applications were received from various persons claiming compassionate appointment since the employee died during service. Hence, in order to take policy decision the appellants had sought the applicants to submit fresh applications with documents in the year 2018. Thereafter the scheme was formulated wherein “Relative Merit Point System” was introduced and the same is as follows:

S. No.	Age of cases	Points
1	Up to 1 year	20
2	Over 1 year & up to 2 years	16
3	Over 2 years & up to 3 years	12
4	Over 3 years & up to 4 years	08
5	Over 4 years & up to 5 years	00
6	More than 5 years	00

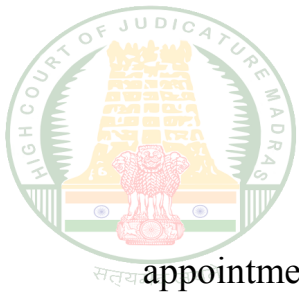


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The above stated points system would clear indicate the family which could sustain for more than five years, then the family was able to tide over the immediate financial crisis, hence the points granted is “zero”. The petitioner’s case is more than five years and hence he has “zero point”, which means the family could tide over the financial crisis. Hence the petitioner’s application was rejected. This Court is of the considered opinion that there is no infirmity. Further in several cases it has been held the compassionate appointment is not mode of recruitment to public services. It is granted to tide over the financial crises due to the sudden death of the employee. Once the family is able to sustain, then the compassionate appointment cannot be granted as a matter of right. When the petitioner and his family was able to sustained all these years, then the petitioner is not entitled to compassionate appointment.

8. It is seen that the petitioner's father T.Rajamanickam died on 06.07.2005 and the legal heirs are Navamani (wife) R.Senthilkumar (first son aged 19 years), R.Muthukumar (second son aged 15 years) and R.Dhanalakshmi (daughter aged 9 years). The writ petitioner's mother had preferred application, dated 11.08.2005, for the second son who was a minor then. If the family was in real financial crisis, then the mother would have opted for compassionate



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appointment or at least the first son would have opted for compassionate appointment. But in the present case the mother had submitted application for the second son who was minor then. This would clearly indicate that the family was not in indigent circumstances and the family has treated the compassionate appointment as a matter of right. Further the family was under the impression that, as and when the family wishes the same ought to be granted. Therefore, this Court is of the considered opinion that the petitioner and his family is under wrong impression.

9. Further it is seen that the father died on 06.07.2005 at that time the petitioner was minor aged about 15 years. Therefore, when the mother had submitted application dated 11.08.2005, the petitioner was minor and hence appointment cannot be granted to minor. The petitioner had attained majority in the year 2008, by that time he had attained majority, the three years period prescribed for submitting application had lapsed. Further immediately after attaining majority, the petitioner had not submitted any application in the year 2008. After long lapse of 13 years the petitioner's mother revived the claim for her son by subsequent representations, dated 25.04.2018, 25.07.2018, 11.12.2019, 20.10.2021, 20.04.2022, 10.11.2022 and 23.12.2022. The aforesaid facts would



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clearly indicate that the petitioner being minor at the time of submitting application, in such circumstances the petitioner is not entitled to compassionate appointment. The issue is already considered by Hon'ble Full Bench of this 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 petitioner was minor at the time of application and the time had lapsed before



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attaining majority, moreover after lapse of 13 years the petitioner's mother had revived the right, which is against the judgment passed by the Full Bench. Therefore, the petitioner is not entitled to claim compassionate appointment.

10. It is a settled law that the compassionate appointment can be granted to meet out the immediate financial constraints of the deceased employee's family. The 1st opportunity will be given to the spouse or to the major son. In the present case, the wife did not opt for compassionate appointment and the 1st son was already 19 years, was a major and was eligible for compassionate appointment. Instead of these two, the wife of the deceased employee has sought compassionate appointment for minor. When both the wife and the first son did not opt for compassionate appointment, the minor child is not entitled to. At the cost of repetition, the writ petitioner would have attained majority in the year 2008, if he had applied after attaining majority and within a period of three years from the date of death of the employee, he would have been eligible. But the writ petitioner failed to apply after attaining majority and by that time 3 years period had lapsed. Therefore, even if the petitioner applied manually, the petitioner is not entitled to compassionate appointment for the reasons stated supra.



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11. After the formulation of the scheme in the year 2023, the petitioner is not having points as prescribed in the scheme, therefore, the writ petitioner is not entitled to compassionate appointment. Further the writ petitioner as on date is aged about 34 years and married. The entire family was able to sustain all these years and there is no indigenous circumstance at all.

12. For all these reasons, the announcement and the order passed by appellants herein are sustained and the writ petitioner is not entitled to any compassionate appointment. Hence, the writ appeal is allowed and the order passed by the Writ Court is set aside. No Costs. Consequently, connected miscellaneous petition is closed.

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

Index : Yes / No

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