



W.A(MD) No.160 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)No.160 of 2023

1.The District Collector,
Karur District,
Karur.

2.The Assistant Director of Rural Welfare (Audit),
O/o.The District Collector,
Karur.

3.The Director,
Rural Development and Village Panchayat Department,
Panagal Building,
Saidapet, Chennai 15.

... Appellants/Respondents

-Vs-

Renuka Devi

... Respondent

PRAYER: Writ Appeal filed under clause 15 of Letters patent, against the order dated 09.11.2022 made in W.P(MD) No.15629 of 2022 passed by this Court.

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For Appellants : Mr.Veera Kathiravan,
Additional Advocate General-II,
Mr. B.Ramanathan
Additional Government Pleader

For Respondent : Mr.K.Govindarajan
for Mr.K.Murali

JUDGMENT

(Judgment of the Court was made by G.ARUL MURUGAN,J.)

The intra-court appeal is filed as against the order dated 09.11.2022, whereby the impugned order rejecting the claim of the respondent seeking compassionate appointment, was set aside by the Writ Court.

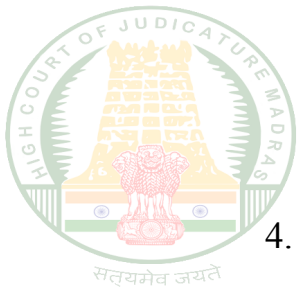
2.The short facts to be noted in the appeal are that the respondent's father, who was originally working as Superintendent in the Office of the second appellant, died on 26.02.2009. Since the wife had predeceased the respondent's father, the respondent made an application seeking compassionate appointment before the appellants-department. The application seeking for compassionate appointment was submitted on 22.06.2011 and the application had been filed within a time period of three years. Initially, the application for compassionate appointment came to be considered and rejected by the impugned order dated 21.09.2011 on



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the ground that the respondent had already been married and the married daughter are not eligible to seek employment under compassionate ground. The order was put to challenge in W.P(MD)No.15716 of 2012. In the first round of litigation, the writ petition came to be allowed on 01.02.2013, whereby the impugned order was set aside and the matter was remanded back to the file of the appellants and the appellants were directed to consider the application within a time period of eight weeks and pass fresh orders. Pursuant to which, no order was passed by the appellants-department as directed by the Writ Court.

3. However the same was considered thereafter and by the second impugned order, dated 04.05.2020, again the claim of the respondent was rejected by the order of the appellants on the ground that since the respondent had crossed the age of 40 years, the respondent is not entitled to be considered for appointment. The second rejection was also put to challenge before this Court in W.P(MD)No.14136 of 2020. In the second round of litigation also, the learned Single Judge of this Court, by order dated 26.08.2021, allowed the writ petition and set aside the impugned order and remanded the matter back to the file of the appellants directing to consider the application by taking note of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, within a period of twelve weeks thereon.



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4. Pursuant to the order of remand, the application of the respondent was considered and by the impugned order, dated 22.12.2021, again the claim of the respondent came to be rejected, this time on the ground that the respondent's husband was earning annual income of Rs.3,60,000/- by carrying on business. Therefore, she is not entitled to seek for compassionate appointment.

5. The third round of rejection was again challenged before this Court in W.P(MD)No.15629 of 2022 and the writ Court, by order dated 09.11.2022, allowed the writ petition setting aside the order of rejection and directed the appellants-department to provide employment on compassionate grounds. The Writ Court, on finding that the reason given by the appellants-department in the impugned order of rejection is not the one, which was a ground of rejections in the first and second rounds of litigation and also by considering the fact, penurious circumstance is to be considered only on the date of death of the respondent's father and not at the time of considering the application, had allowed the writ petition. Assailing the impugned order passed by the Writ Court, the State is before this Court on appeal.

6. Mr.Veerakathiravan, learned Additional Advocate General, representing Mr.B.Ramanathan, learned Additional Government Pleader, argued that when the



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respondent came forward seeking employment on compassionate ground, unless it is established that the family of the respondent is under penurious circumstances, employment cannot be extended. He further submitted that the compassionate appointment is provided under the scheme and unless the applicant satisfies all the criteria laid down under the scheme, they are not eligible for employment. He also by relying upon the decision of the Hon'ble Supreme Court in the case of ***Secretary to Government Department of Education (Primary) and Others Vs. Bheemesh Alias Bheemappa*** reported in (2021) 20 SCC 707, submitted that the rules which were in force on the date of the application, will be the eligible criteria to be considered and therefore, the appellants-department have considered the application in accordance with the prevailing rules and since the respondent did not satisfy the criteria, the application came to be rejected.

7. The learned Additional Advocate General further submitted that when the respondent was married on the date of death of the father, she is not an eligible legal heir, to be considered under the compassionate appointment scheme and further when there are other legal heirs, unless no objection certificate is obtained in favour of the respondent, the application could not be considered. It is further submitted that there was a civil dispute between the family of the respondent and only in the year 2019, the dispute got resolved and there was a delay on the part of



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the respondent in submitting the fresh application, which was ultimately submitted only in the year 2019 and therefore, the delay was only on the part of the respondent.

8. It is his further contention that the compassionate appointment cannot be granted simply being a legal heir, as repeatedly held by the Hon'ble Supreme Court and only if the family was under penurious circumstances and on satisfying the eligible criteria under the scheme, they will be entitled to compassionate appointment. It is his further contention that the Writ Court had not considered these aspects and had allowed the writ petition and set aside the impugned order simply on the ground that the reasons adduced did not form part of the earlier rounds of rejection. Therefore, he sought for interference of this Court.

9. Contending contra, Mr.K.Govindarajan, learned counsel appearing for the respondent argued that originally the application was submitted for seeking compassionate appointment within the time and the same came to be rejected only on the ground that she is not the legal heir, since she has been married at the time of death of her father, which was set aside. The learned counsel further submitted that when the second round of application came to be rejected, this Court set aside the rejection order and directed the second respondent to consider as per G.O.



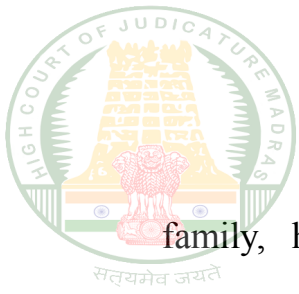
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(MS) No.18 and now in the impugned order, the claim of the respondent had been

rejected for the third time by only incorporating a new reason that the respondent husband is earning annual income of Rs.3,60,000/-. It is his further contention that for the purpose of compassionate appointment, what is to be considered is whether the family was under penurious circumstances at the time of death of Government servant and it cannot be expected that to avail the scheme, they should continue to suffer for sustenance without any avocation. It is his further contention that the State by delaying the process of compassionate appointment and having not challenged the earlier order passed, the reasons adduced and the argument sought to be made by the appellants cannot be countenanced. The learned Single Judge had considered all these aspects and allowed the writ petition. Hence, he sought for dismissal.

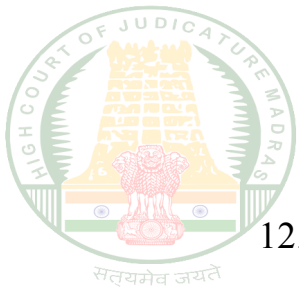
10.Considered the rival submissions and perused the materials available on records.

11.Admittedly the respondent's father, who was working as Superintendent in the appellant department died on 26.02.2009 while in service and the respondent mother had predeceased her father. Subsequently, her brother also died in an accident on 04.04.2010. The respondent being the only surviving member of the



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family, had made an application before the appellants-department seeking employment under the compassionate ground on 22.06.2011. When the death of the respondent's father was on 26.02.2009, the application has been made within a period of three years. The application was considered by the department and her claim came to be rejected on the ground that since the respondent was married at the time of death of his father, she is not the dependent and therefore, her application for grant of compassionate appointment, cannot be considered. The order of rejection was challenged before the writ Court in W.P(MD)No.15716 of 2012 and by an order dated 01.02.2013, the rejection order was set aside and the writ petition came to be allowed. The Writ Court held that the claim of the respondent cannot be rejected simply on the ground that she cannot be treated as a dependent based on the marital status, since she had already been married on the date of death of her father. It is to be noted that when this rejection was already set aside and the appellants were directed to reconsider and pass fresh orders within the time frame of eight weeks, the State did not choose to prefer any appeal and the order in the writ petition attained finality. If the appellants have passed the order in the year 2013 itself as directed by the writ court, the respondent would have been appointed and there was no impediment since the only ground on which the claim was rejected was set aside.



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12. Though the Writ Court had directed the appellants to pass fresh orders within a period of eight weeks, they have not chosen to pass any orders and only after 7 years on 04.05.2020, again the application of the respondent was considered afresh and the claim of the respondent was rejected for the second time. In the second order of rejection, the appellants-department had rejected the claim on the ground that the respondent was already aged 42 years and as per the scheme, the application could be considered only if the applicant is within the age limit of 40 years. The respondent had challenged this rejection also in W.P(MD)No.14136 of 2020. In the second round of litigation, by order, dated 26.08.2021, writ petition was allowed and the order of rejection was set aside and the matter was remanded back to the appellant directing to consider the claim as per G.O(Ms)No.18, Labour and Employment Department, dated 23.01.2020, within a period of twelve weeks.

13. Pursuant to the order passed in the writ petition, the claim of the respondent was considered afresh and the department by a third impugned order, dated 22.12.2021, again rejected the claim of the respondent. The ground of rejection, this time was that the respondent's husband was earning annual income of Rs.3,60,000/-, which was evident from the certificate issued by the Tahsildar, Tiruchengode and therefore, the respondent is not eligible for appointment on



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compassionate ground as the family is not under penurious circumstances.

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14. In the writ petition filed challenging the third rejection, the Writ Court had considered the reasons which were furnished in the first and second rounds of rejection and also the reasons in the impugned order in the writ petition. On finding that in every stage new reasons were brought in just to reject the claim, had interfered with the impugned order of rejection. The Writ Court had observed that when the claim was earlier rejected on the ground that the respondent is not the dependent, since she was married at the time of death of her father and the writ petition came to be allowed in the year 2013 and the department did not choose to file any appeal, had now in the year 2021 rejected the claim on the ground that the respondent husband is earning annual income of Rs.3,60,000/-. The Writ Court has also observed that penurious circumstances prevailing at the time of death of the respondent's father, is to be considered and not at the present stage.

15. We are not able to find fault with the writ court and there is no merits in the appeal. The main contention of the learned Additional Advocate General, that the delay has been made on the part of the respondent in submitting the application cannot be accepted for the simple reason that as referred earlier, when the respondents father died on 26.02.2009, the application of the respondent

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seeking for compassionate appointment was made on 22.06.2011 itself, within a period of 3 years. The claim came to be rejected on 21.09.2011 and while the order of rejection was set aside by the Writ Court on 01.02.2013, the appellants were directed to pass fresh orders within a time frame of 8 weeks. But they have failed to do so. They have passed orders only in the year 2020 and rejected the claim, for which it is stated that since a civil dispute was going on between the family of the respondent, they had taken time. However, nothing is placed on record to that effect and the same is also not spelt out in the rejection order that there was a delay only due the civil dispute.

16. While so, the second rejection was made only on the ground that the respondent has crossed the age of 40 years. When admittedly the application was made in time and the respondent was within the age limit, the reason for rejection given in the second round was not justifiable and it was rightly rejected by the Writ Court and the matter was remanded back to the file of the appellants with a direction to consider the application by taking note of G.O(Ms)No.18, dated 23.01.2020. As referred by the Writ Court, in the present round of litigation, the department had only relied on the certificate issued by the Tahsilder and rejected the claim on the ground that since the respondent's husband is earning annual income of Rs.3,60,000/-, the family is not under penurious circumstances and



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therefore, she is not eligible for compassionate appointment.

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17. It is true that the respondent does not have a vested right to seek for compassionate appointment, as it is only considered based on a scheme. Compassionate appointment is provided only to bail out the family from the penurious circumstances, due to the sudden loss of the earning family member. As such the compassionate appointment cannot be granted after a long period of delay, when the need has cease to exist. However in the peculiar facts and circumstances of the present case, where the respondent has made the application in time and the writ court had directed the appellants to pass orders in 8 weeks, for no reasons they have delayed passing orders for nearly 7 years. If the appellants had complied with the order in time, there was no impediment and the respondent would have been appointed in the year 2013 itself. Now the appellants cannot take advantage of their own wrong and contend there is delay and as such the benefits cannot be granted. The appellant department had rejected the claim of the respondent one after the other by inventing new reasons, which is not permissible and acceptable to reject the claim.

18. Further as per the impugned order of rejection, it is not that as on the date of death of the respondent's father, the family was not under penurious

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circumstances. As such we do not find any error or infirmity in the order passed by the Writ Court in directing the appellants-department to provide compassionate appointment.

19. In view of the above, the Writ Appeal fails and is accordingly dismissed. Considering the fact that the respondent is already aged 47 years, the appellant-department shall pass orders providing compassionate appointment to the respondent, within the period of 12 weeks from the date of receipt of a copy of this order. It is made clear that the respondent will not be entitled to claim any benefits for the period prior to the date of appointment. No costs.

[A.D.J.C., J.] & [G.A.M., J.]
04.07.2025

NCC : Yes / No
Index : Yes / No
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To

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2.The Assistant Director of Rural Welfare (Audit),
O/o.The District Collector,
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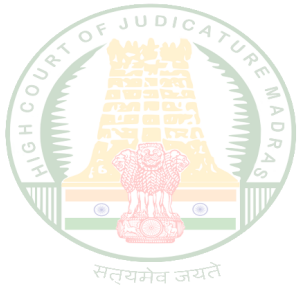
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