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W.P.No.23880 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved on : 17.02.2026**

**Pronounced on : 20.02.2026**

**CORAM:**

**THE HONOURABLE MR. JUSTICE T.VINOD KUMAR**

**W.P.No.23880 of 2021**

R.Vairamuthu

... Petitioner

**vs**

1. The Divisional Engineer,  
Highway Department of Constructions  
and Maintenance,  
Dharmapuri District.

2. The Assistant Divisional Manager,  
Highway Department of Constructions  
and Maintenance,  
Harur, Dharmapuri District.

... Respondents

**Prayer:** Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records from the second respondent pertaining to the impugned order Na.Ka.No.05/2021/E.Ni.Hu/on 22.07.2021 quash the same and consequently to direct the respondents to provide compassionate appointment and pass orders.

For Petitioner : Mrs.P.Makeswari



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for Mr.P.Vijendran

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For Respondents : Mrs.V.Yamunadevi  
Special Government Pleader

**ORDER**

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the records.

2. Briefly put the case of the petitioner is that his father had worked as Road mender with the respondents; that his father had rendered 14 years of service with the second respondent; that his father while on duty had died in an accident which had occurred on 27.12.2011.

3. It is the further case of the petitioner that his mother had predeceased his father in the year 2003; that his father thereafter married his mother's sister; and that due to the said wedlock, he had half-sister; and that the petitioner has elder sister and younger brother in addition to half-sister; and that the petitioner has elder sister and younger brother in addition to half-sister and all of them were living together with the father and step-mother.

4. It is the further case of the petitioner that on account of sudden death



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of his father in an accident on 27.12.2011, the entire family was left with no means; that during the year 2014, his elder sister who had attained the age of majority submitted her representation to the Principal Director of Highway Department, Chennai on 08.12.2014 seeking for appointment on compassionate ground; that in response to the aforesaid representation, the second respondent had given a reply on 10.02.2015 directing the petitioner's elder sister to produce required documents; that instead of the petitioner's elder sister submitted the additional documents as sought for by the second respondent in person, there has been no response from the respondents; that on approaching the respondents, his sister was informed to wait for some time; and that in the interregnum, his elder sister got married in the year 2018.

5. It is the further case of the petitioner that thereafter, he had approached the second respondent and submitted a representation dated 13.01.2018 seeking for appointment on compassionate ground along with all the required documents; and that the second respondent forwarded the said representation to the first respondent on 29.03.2021; that on the second respondent enquiring about the representation submitted by his elder sister for appointment on compassionate



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ground, earlier he had obtained no objection letter from his sister and other family members and submitted the same to the second respondent on 06.11.2019; and that instead of submitting the application along with the relevant document and also no objection certificate from his elder sister and other family members, the respondents did not consider the case of petitioner for being provided with compassionate appointment.

6. Petitioner contended that the respondents, instead of providing compassionate appointment, on the other hand placing reliance on G.O.Ms.No.18 dated 23.01.2020 issued, are claiming that since, the application for appointment on compassionate ground is not made within three years from the date of death of his father, the representation cannot be considered which action of the respondents it is contended as highly illegal, arbitrary and violation of principles of natural justice.

7. Counter affidavit on behalf of the respondents is filed.

8. The respondents while not disputing that the father of the petitioner having died on duty on 27.12.2011, claimed that they have no information as to the



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circumstances that led to the death of his father as narrated in the affidavit.

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9. The respondents by the counter affidavit further contended that the petitioner's elder sister one Ramya had submitted a representation on 08.12.2014 for appointment on compassionate ground; and that the aforesaid representation being submitted within three years from the date of death of the employee; that on receiving the representation from the petitioner's elder sister seeking appointment on compassionate ground, the second respondent by proceedings dated 10.02.2015 had sought for certain information from the applicant and in spite of the same being reminded *vide* letter dated 24.12.2014 and 02.04.2016, applicant i.e., petitioner's elder sister never furnished the information sought for by the respondents for providing compassionate appointment to her.

10. It is also further contention of the respondents that while the elder sister of the petitioner did not respond to the communication issued by the second respondent by furnishing information/documents as sought for, the elder sister of the petitioner eventually got married in the year 2018, thereby disentiing herself from being considered for appointment on compassionate ground.



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11. The respondents by the counter affidavit further contended that the petitioner thereafter submitted a representation to the second respondent on 13.01.2018 for being appointed on compassionate ground; that the aforesaid representation submitted by the petitioner was forwarded to the first respondent vide proceedings dated 29.03.2021; that the second respondent had referred to the application/representation made by the petitioner's sister previously after which the petitioner had produced a no objection letter from the sister and family members.

12. By the counter affidavit, the respondents while denying the claim of the petitioner of having visited the office and noticing that the files are kept pending for consideration, however claimed that alternate application for compassionate appointment can be considered only after the applicant i.e., any of the legal heir is dead; and that the petitioner having submitted the application in 2018 after a lapse of nearly 7 years from the date of death of his father, the application made by the petitioner was not considered as the same was submitted well past three years of limitation prescribed by various Government Orders in force.



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13. The respondents further contended that as the petitioner was minor at the time when his father had deceased and his elder sister having submitted an application within three years from the date of death of her father and the respondents having called upon the applicant ie., petitioner's elder sister to submit certain information and documents, and she having not complied with the aforesaid direction by submitting the documents, the petitioner on attaining the age of majority cannot claim of having submitted the application within the period of three years and claim that since the respondents failed to consider the application made by his sister in time, the respondents are required to consider the application of the petitioner for being provided with compassionate appointment.

14. The respondents further contended that since, the petitioner's elder sister who had initially submitting an application in time, not having pursued her claim for appointment on compassionate ground by submitting documents, and the petitioner being minor at the relevant point of time, the petitioner cannot maintain his application for being appointed on compassionate ground on attaining the age of majority at a later point of time beyond three years, hence, the application was rejected.



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15. Contending as above, the respondents seek for dismissal of the writ petition.

16. I have taken note of the respective contentions as urged.

17. At the outset, it is to be noted that the provision of compassionate appointment is not a matter of right but is intended to enable the family to tide over an immediate crises which may result from the date of death of employee who is a breadwinner for the family. This principle has been laid down by the Hon'ble Apex Court in the case of *Union of India Vs. Amrita Sinha* reported in **2021 20 SCC 695**.

18. It is also equally settled proposition of law that the claim for compassionate appointment must be decided only on the basis of the relevant scheme or the Rules prevalent on the date of demise of the employee. The said principle has been laid down by the Hon'ble Apex Court in the case of *State of Madhya Pradesh and Ors. Vs. Amit Shrivastava*, (2020) 10 SCC 496. The said principle laid down was followed again in the case of *State of Madhya Pradesh &*



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**Ors. Vs. Ashish Awasthi** reported in (2022) 2 SCC 157.

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19. Applying the law as laid down by the Hon'ble Apex Court, to the facts of the present case, as noted herein above, the legal heirs of the deceased employee ought to have made an application for being provided with the compassionate appointment within a period of three years from the date of death of the employee on 27.12.2011 i.e., on or before 26.12.2014. The elder daughter of the deceased employee ie., Mrs.Ramya, i.e., elder sister of the petitioner having submitted an application on 08.12.2014 for being provided with the compassionate appointment and the respondents in response to the said application having called upon the applicant to submit details about her educational qualification, information in respect of her family income *vide* proceedings dated 10.02.2015 and by way of reminder dated 02.07.2015, for the reasons best known, did not furnish the information and remained silent.

20. It is also to be noted that had the petitioner elder sister submitted the documents and information as and sought for by the respondents, and despite the same, the respondents not considering her application for being appointed on



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compassionate grounds, the applicant/petitioner's elder sister sought to have assailed the action of the respondents, if the said inaction on the part of the respondents is contrary to the scheme. Admittedly, the petitioner elder sister did not undertake/initiate any such action. The result of the eligible legal heir/family member of the deceased employee not pursuing her claim though submitted an application seeking appointment of compassionate ground in time, would amount to the eligible member as giving up her/his claim for being appointed on compassionate ground. Thus, the said application submitted by the elder sister of the petitioner in time could not be considered as being valid and subsisting, for the petitioner to claim benefit thereunder.

21. Further, the petitioner's elder sister, having not taken any steps to assail the action on the part of the respondents in not considering her application and on the other hand, remaining silent it is to be construed as the applicant i.e., the petitioner's elder sister having given up her claim for compassionate appointment. The petitioner who had attained the age of majority subsequently cannot seek to revive the said claim submitted by his elder sister as having been filed in time on behalf of the family members of the deceased employee. The petitioner's elder



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sister having been submitted an application for being provided with the appointment on compassionate ground to her, the said application submitted by her cannot be transferred on to the name of the petitioner, for it to be considered as having been submitted in time, more particularly, when the petitioner was a minor at the relevant point of time.

22. As the petitioner admits to having submitted an application for being provided with the compassionate appointment only on 30.01.2018, which is beyond the period of three years from the date of death of deceased employee ie., petitioner's father, the said application cannot be considered as having been filed in time and that the action of the respondents in rejecting the said application by the impugned order is to be held as valid.

23. As noted herein above, not only the petitioner was a minor at the time when his father had deceased in road accident, but continued to be minor within a period of three years thereafter and the petitioner's elder sister being eligible for appointment on compassionate ground having submitted her application within a period of three years and having failed to furnish the necessary



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information and documents as sought for by the respondents for considering her application for appointment on compassionate ground, the petitioner cannot step into the shoes of his sister in order to claim that the respondents are required to provide him with appointment on compassionate ground.

24. In view of the aforesaid discussions, this Court is of the view that the Writ Petition as filed is misconceived and accordingly, dismissed. No order as to costs.

**20.02.2026**

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

To

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**T. VINOD KUMAR, J.**

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Pre-delivery order made in  
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