



W.A(MD)No.1258 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)No.1258 of 2023

M.Augustin Edwin Raja

... Appellant /
Petitioner

Vs.

1.The Director,
Tamil Nadu Fire & Rescue Services,
No.12, Lakshmipathy Rukmani Salai,
Egmore,
Chennai – 600 008.

2.The District Officer,
Fire & Rescue Services,
Tenkasi District,
Tenkasi.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 07.03.2022 made in W.P(MD)No.15257 of 2021 on the file of this Court and allow the writ appeal.

For Appellant : Mr.M.N.Rajapanth



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For Respondents : Mr.S.Shaji Bino
Special Government Pleader

JUDGMENT

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

Heard both sides.

2.The unsuccessful writ petitioner is the appellant before us.

3.The writ petitioner's father was employed in Tamil Nadu Fire and Rescue Services. He passed away while in harness on 06.10.2014. The petitioner's mother submitted an application seeking compassionate appointment for the petitioner on 07.09.2017. The said application could not be considered because the appellant had not then attained majority. The appellant attained majority only on 22.10.2018. Thereafter, the appellant continued to submit representations. One such representation was rejected by the authority concerned on 28.07.2021. Challenging the same, the appellant filed W.P(MD)No.15257 of 2021. The learned single Judge dismissed the writ petition vide order dated 07.03.2022. Hence, this writ appeal.



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4.It is true that in quite a few decisions, we have been holding that

the vacancies cannot remain unfilled till the applicants attains majority.

However, our attention is drawn to the order dated 13.03.2025 made in

W.A.No.3141 of 2021 (R.Ziyaullah Vs The Commissioner, Krishnagiri

Municipality, Krishnagiri). The Hon'ble Division Bench in the said

decision had held as follows:

“7.However, learned Special Government Pleader has also brought to our notice the recent Government Order issued vide G.O.(Ms).No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023. The Government, in exercise of its power under Article 309 of the Constitution of India, have made the Rules called Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023. It is also admitted that the said Government Order is adopted by all the Government Departments. Rule 17 of the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, reads as follows :

“17.Power to relax.— Where the Government is of the opinion that it is necessary or expedient so to do, it may by order, for reason to be recorded in writing, relax any of the provisions of these rules with respect to any person where the operation of these rules causes any hardship: Provided



that educational qualification prescribed for appointment to any post shall not be relaxed.”

8.The Government has now retained the power to relax any provision of the Rules with respect to any person where the operation of this Rules would cause any hardship. All the facts of the present case is an example where the petitioner who is otherwise entitled to appointment on compassionate grounds, was denied employment only on the ground that his application was originally filed when he was minor and that the latter application was beyond the period of three years. When a Government employee dies leaving behind a son who is below 15 years old, there is no chance of minor being considered after attaining majority. When the fact that the family of the appellant is still in trouble and the Certificate issued by the Tahsildar shows that the appellant, along with his mother, is struggling for their livelihood, the Government, who has retained the power of relaxation specifically to deal with such situations as in the present case, has to consider the case of appellant. The Government is expected to consider the request of the appellant in the light of the power under Rule 17 of the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023.

9.At this juncture, learned Special Government Pleader appearing for the respondent submitted that the



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said Rules was introduced only on 08.03.2023 and that it has no retrospective effect. It is further stated that the said Rules is not applicable to the local bodies where the appellant's father was employed. This contention of the learned Special Government Pleader that the Government Order is not applicable to the respondent Municipality, is not fair, as the Government Order itself was produced by the learned Special Government Pleader to support her argument that no Rule is provided to entertain the application of minor after attaining majority, if the application is filed beyond the period of three years from the date of death of employee.

10. Even this Court has also noticed in a few cases that the Government has earlier entertained applications even beyond the period of three years on minor dependant attaining majority. In such circumstances, this Court is of the view that the Rule can be applied to cases which are pending. Further, there is no delay in challenging the order impugned. Therefore, having regard to the view expressed by us, this Writ Appeal is allowed and the order of the learned Single Judge, dated 04.03.2021, is set aside. The matter is remitted to the respondent and the respondent shall submit a proposal to the Government for relaxing the Rule in the case of appellant, within a period of two weeks from the date of receipt of a copy of the order. The Government, though not a party, is directed to consider the proposal of the



respondent and pass appropriate orders on the same, within a period of six weeks from the date of receipt of such proposal. No costs.”

5.We are inclined to adopt the very same approach in this case also. This is for more than one reason. It is not as if once an application for compassionate appointment is given, it is processed immediately and the appointment order issued forthwith. Far from it. We have come across cases where the applicant has to wait for even 10 long years and more. In this case, when the application was given, the appellant was 17 years old. On that sole ground, we are of the view that his application could not have been rejected. It is also relevant to note that the appellant is a polio affected individual.

6.In these circumstances, we are inclined to adopt the approach taken in W.A(MD)No.3141 of 2021. In this view of the matter, the order of the learned single Judge dated 07.03.2002 is set aside. The matter is remitted to the file of the first respondent. The first respondent shall submit a proposal to the Government for relaxation of the relevant Rule in the case of the appellant within a period of two weeks from the date of receipt of a copy of this order. The Government, though not a party, is directed to consider the proposal of the first respondent and pass orders



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on the same within a period of three weeks from the date of receipt of such proposal.

7.This Writ Appeal is allowed on these terms. No costs.

[G.R.S., J.] [R.K.M, J.]
12.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

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