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W.A.No.355 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.355 of 2025

and C.M.P.Nos.2834 and 2835 of 2025

Gowdham

.. Appellant

-vs-

1. The Director General,
National Highways Department,
Chennai-25.
2. The Chief Engineer,
National Highways Department,
Chennai-25.
3. The Superintending Engineer,
National Highways Department,
Chennai-106.
4. The Divisional Engineer,
National Highways Department,
Villupuram 605 602.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 25.09.2024 passed in W.P.No.17429 of 2023 on the file of this Court.



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For Appellant : Mr.M.Vijayakumar

For Respondents : Mr.K.H.Ravikumar
Govt. Advocate
* * * * *

JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

Challenge is to the order of this Court, in and by which the request of the appellant seeking compassionate appointment was rejected.

2. The father of the appellant who was working as a Record Clerk in the Highways Department died in harness on 01.10.2016. On the date of death, the only person qualified for compassionate appointment was the wife of the Government servant and mother of the appellant, Tmt.Amudha. She made an application seeking compassionate appointment on 05.01.2018. The said application was kept pending for nearly 34 months and on 16.10.2020, the Divisional Engineer, National Highways Department, Villupuram, wrote to the mother of the appellant requiring her



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to produce the following documents:

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- 1) New income certificate;
- 2) The manner in which the benefits received on the death of the Government servant were spent;
- 3) A genuineness certificate regarding the educational qualification; and
- 4) Copy of the family card duly attested by the Taluk Supply Officer.

On receipt of the said letter, the wife of the Government servant/mother of the appellant wrote to the respondents stating that the job may be given to her son, namely, the appellant, who had then completed 11th standard. The said request was rejected. After attaining majority, the appellant made a fresh application on 19.11.2022. The same was rejected on the ground that the application has been filed three years after the death of the Government servant and the person seeking compassionate appointment must have completed the age of 18 years at the time when he makes the application for compassionate appointment. The appellant made another representation on 25.01.2023 and the same was also rejected on 16.03.2023. This is the order which is the subject matter of challenge in the writ petition.

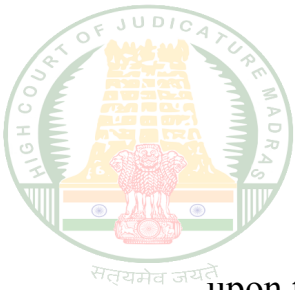


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3. The learned Single Judge, who heard the writ petition, accepted the contention of the respondents that the application ought to have been made within three years and since the appellant had attained majority only after three years of the death of the father, his application cannot be entertained. The learned Single Judge, however, found that the application of the mother was unnecessarily kept pending for nearly 6 years at the time when the writ petition was disposed of. He, therefore, directed the respondents to consider the application of the mother and offer her compassionate appointment. The appellant is aggrieved by the order of rejecting his claim for compassionate appointment.

4. Mr.Vijayakumar, learned counsel appearing for the appellant, would vehemently contend that the appellant is more suited than his mother for being appointed on compassionate basis and hence, the respondents are not justified in rejecting his application. He would also point out that the Government has the power to relax any of the requirements. He would rely



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upon the provisions for relaxation made in G.O.(Ms).No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, whereby the Government is empowered to relax any of the provisions of the rules with respect to any person where operation of these rules causes any hardship. He would also submit that his mother herself has nominated his son, the appellant, for compassionate appointment even in the year 2020 and therefore, he would be entitled to be considered on the ground that it is an alternative application.

5. Contending contra, Mr.K.H.Ravikumar, learned Additional Government Pleader appearing for the respondents, would submit that compassionate appointment is not a right and if there is a scheme providing for compassionate appointment, the provisions of the scheme will have to be strictly adhered to. Reliance in this regard is also placed on the judgment of the Full Bench of this Court in *Nandini Devi and others vs. Secretary to Government (W.P. (MD) No.7016 of 2011 etc., dated 11.03.2020)*. The reference to the Full Bench arose because of the conflicting views expressed by the Division Benches of this Court on the applicability of the limitation



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period of three years prescribed under the relevant scheme for compassionate appointment. The Full Bench answered the reference to the effect that the prescription of three years is rationale and the judgment in ***A.Kamatchi vs. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758*** is no longer a good law. While doing so, the Full Bench stressed the need for strict adherence to the scheme framed as follows:

" 32. In view of the above, the reference is answered as under:

- a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible.*
- b) In view of the above the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly."*

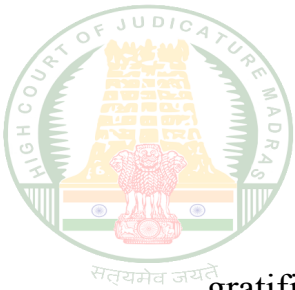


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While concurring with the views expressed by the Hon'ble Justice Subramonium Prasad, the other two Judges who constituted the Division Bench, in their supplemental reasonings, have held that it is open to the State to relax the condition regarding time in exceptionally rare cases.

6. In the case on hand, we find that the mother had already applied seeking compassionate appointment. Since her request was unduly delayed and the authorities adopted a pedantic approach in seeking fresh certificates which cannot be obtained without a reasonable expense, the mother thought it fit to nominate the appellant, probably because the cost of obtaining the certificates can be earned by the appellant, since he has more years of service. A Division Bench of this Court in ***P.Pappu vs. The Sub Registrar, Rasipuram SRO, Rasipuram, Namakkal District (W.A.No.1160 of 2024 dated 27.09.2024)***, has given judicial recognition to the fact that none of the certificates from Government officials come without a price. By requiring the mother to get fresh certificates, the Divisional Engineer has only paved way for the officers in-charge of issuing such certificates to get illegal



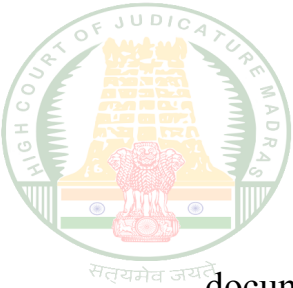
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gratification once over again. We have to acknowledge that corruption is rampant in every organ of the Government today. Requiring a person who seeks compassionate appointment to get three certificates once over again, we are sure, is only with the object of facilitating collection of illegal gratification by those officers. Having said so, we should also acknowledge our helplessness in curbing the menace of corruption.

7. In view of the pronouncement of the Full Bench and the provisions of the Scheme, we are unable to fault the learned Single Judge for having upheld the rejection of the appellant's application. At the same time, we cannot be mute spectators to the inaction on the part of the respondents for nearly 34 months from 05.01.2018 to 16.10.2020. The first response to the mother's application dated 05.01.2018 was on 16.10.2020, that is, after the expiry of 34 months. There is no explanation for this delay.

8. Mr.Senthilkumar, Assistant Divisional Engineer, who is present in Court, has produced the copies of the original file, which show that the mother of the appellant, Tmt.Amudha, has produced all the required



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documents and what was sought for is only a re-validation of those documents. By keeping the matter pending for 34 months, the respondents are not justified in seeking re-validated certificates. It is now not in dispute that Tmt.Amudha is qualified for compassionate appointment. We, therefore, direct the respondents to immediately offer compassionate appointment to Tmt.Amudha commensurate with her qualification. The appointment order is to be issued within a period of four weeks from the date of receipt of a copy of this order.

9. Writ Appeal is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.)

(G.ARUL MURUGAN, J.)

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Index : Yes/No

Neutral Citation : Yes/No

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R.SUBRAMANIAN, J.
AND
G. ARUL MURUGAN, J.

(sra)

To

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Chennai-25.
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