



W.A.No.1928 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.1928 of 2018
and C.M.P.No.15496 of 2018**

S.Nandhini ... Appellant

-Vs-

1.The Chairman
Tamil Nadu Electricity Board
Anna Salai, Chennai - 600 002.

2.The Superintending Engineer
TNEB / TANGEDCO,
Dharmapuri Electricity Distribution
Circle, Dharmapuri-5.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.20717 of 2013 dated 20.10.2017.

For Appellant : Mr.G.Anandha Kumar
For Respondents : Mr.K.Rajkumar, Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This appeal has been directed against the order passed by the writ Court dated 20.10.2017 in W.P.No.20717 of 2013.



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2. The appellant herein was the writ petitioner, whose father was working in the respondent TANGEDCO and he died in harness on 07.06.2008. Thereafter, the son of the deceased employee one Desigan made an application to get compassionate appointment. That application having been considered and satisfied that the family of the deceased employee was in indigent circumstances, TANGEDCO had come forward to give compassionate appointment to the said Desigan by order dated 10.06.2011, appointing him as Field Worker.

3. However, the said Desigan has expressed his mind that, since he is a B.E.,M.B.A., graduate, the post of Field Worker which was offered to him by way of compassionate appointment by TANGEDCO is not befitting to his educational qualification. Therefore, instead of taking the job, he wanted the said job to be given to his third sister ie., Nandhini, who is the present appellant. It is further to be noted that the said Nandhini is the daughter of the deceased employee through the second wife and Desigan is the son of the deceased employee through his first wife.

4. Be that as it may. Pursuant to the said decision taken by Desigan which has been conveyed to TANGEDCO on 03.10.2011, immediately the appellant on 31.10.2011 has expressed her willingness to take the job on compassionate ground, as the job offered to her brother Desigan has not been accepted by him, that job may be given to the petitioner / appellant. That is how the said request was made by her on 31.10.2011.



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5. The said request made by the petitioner / appellant having been considered, was rejected by the order dated 11.01.2012 by the respondent TANGEDCO, wherein it has been stated as follows:

ghh;itapy; fhqk; j';fspd; 31/10/2011 ehspl;l thhpR ntiy nfhUk;
kD Ma;t[bra;ag;gl;lJ/

- 1) thhpa gzpahsh; ,we;j ehs; 07/06/2008
- 2) gzpahsh; ,we;J 3 tUl';fs;
Kotila[k; ehs; 06/06/2011
- 3) bry;tp. ee;jpdp thhpR ntiy
nfhhp kD bra;j ehs; 31/10/2011

,e;epfH;tpy; j';fspd; je;ij (thhpa gzpahsh;) ,we;j 3 tUl';fSf;Fs;
bry;tp. ee;jpdp thhpR ntiy ntz;o tpz;zg;gpf;fhky;. fhyk; fle;J
tpz;zg;gj;Js;sikahy;. jw;ngHJ eilKiwapy; cs;s tpjpKiwfspd;go.
thhpR ntiy nfhUk; kDit ghprPypf;f ,ayhj epiy cs;sJ vd ,jd; K:yk;
bjhptpj;Jf; bfhs;sg;gLfpwJ/

6. Challenging the said order, the said writ petition was filed which was dismissed by the learned Judge by stating the reasons and citing various decisions of the Hon'ble law Courts that the compassionate appointment is not a matter of right, compassionate appointment is to be given only to immediately bail out the family who are in indigent circumstances and moreover, the application for compassionate appointment should be made within three years period as per rule and if it is not



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given within three years, that application need not be considered. Citing all these reasons, the learned Judge was pleased to dismiss the writ petition by the impugned order dated 20.10.2017.

7. Assailing the said order, Mr.G.Anandha Kumar, learned counsel for the appellant would contend that the application submitted by the petitioner / appellant on 31.10.2011 is not a fresh application, but it is only a request that she has made expressing her willingness to take compassionate appointment in view of the decision taken by her brother, who had already made an application within the time frame and that was considered and compassionate appointment though was given since was not accepted because of the higher educational qualification held by the brother of the appellant. Therefore, the reason given in the order dated 11.01.2012 passed by the TANGEDCO is not sustainable, he contended.

8. In fact, during the last hearing after we heard the learned counsel for the parties, as we wanted to verify whether still the family of the petitioner/appellant is in indigent circumstances, we directed the appellant to get a certificate from the Tahsilar to that effect. Pursuant to the said direction, the learned counsel for the appellant / petitioner produced a certificate with respect to the indigent circumstances of the family of the petitioner/appellant from the Tahsildar, Mettupalayam dated 01.09.2023 and the contents of the said certificate reads thus,



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"nfhaKj;J}h; khtl;lk;. nkl;Lg;ghisak; tl;lk;. rpf;fjrhk;ghisak;
fpuhkk;. uh\$Pt;fhe;jp efh;. fjt[vz; 4-562B vd;w Kfthpapy;
trpf;Fk; jpUkjp/ee;jpdp f-bg/jpyPg; vd;gtUf;F nkw;go
fpuhkj;jpy; mira[k; mirah brhj;Jf;fs; VJkpy;iy vd fpuhk eph;thf
mYtyh; kw;Wk; tprhuizapd; mog;gilapy; rhd;W tH';fg;gLfpwJ/"

9. Relying upon this certificate, the learned counsel for the appellant would contend that the family of the appellant is still in indigent circumstances and therefore she is entitled to seek for compassionate appointment and the said reason stated in the order dated 11.01.2012 would not be sustained and the same has not been considered in proper perspective in the impugned judgment. Hence, the learned counsel for the appellant seeks the indulgence of this Court.

10. Heard Mr.K.Rajkumar, learned Standing Counsel who would submit that, insofar as compassionate appointment to the family member or legal heir of the deceased employee is concerned, the application submitted by the son of the deceased employee having been considered, compassionate appointment has been given by order dated 10.06.2011. The said order has not been accepted by the legal heir ie., the son of the deceased employee, who is the son born through the first wife of the deceased employee. Once the offer was made and that was not accepted, the episode of granting compassionate appointment comes to an end. Therefore, that cannot be once again reopened.



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11. If at all the second time further application has come, that too from the daughter of the deceased employee through the second wife, it is not legally permissible and such kind of reopening the issue for the second application is not contemplated under the relevant rules. Moreover, the second application has been made beyond three years period from the date of death of the employee. That is also one of the grounds on which the request made by the appellant / petitioner was rejected through the order dated 11.01.2012.

12. The deceased employee died in the year 2008 and we are in 2023. Therefore, 15 years have gone and whether, after this long time still the family of the deceased is in indigent circumstances, if it is the claim made by the petitioner / appellant, that cannot be accepted. Therefore, on that ground also, the claim now made by the petitioner / appellant cannot be considered, as the family of the deceased employee certainly would have been bailed out from the indigent circumstances as 15 long years have gone by since the employee has deceased.

13. Therefore, the learned Standing Counsel would contend that all these aspects having been considered, the learned Judge has passed an exhaustive order, which is impugned and therefore it does not warrant any interference from this Court.



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14. We have considered the submissions made by the learned counsel on either side and have perused the materials placed on record.

15. Insofar as the reason that has been stated in the order dated 11.01.2012 rejecting the application of the appellant / petitioner is concerned, that the said application was made beyond three years period, according to the respondent TANGEDCO the employee died on 07.06.2008, three years period was over by 06.06.2011, the application was made only on 31.10.2011. Therefore, after three or four months after the expiry of the three years period only the petitioner had made the application for compassionate appointment and that was the only reason stated in the rejection order.

16. But, the fact remains that one of the legal heirs of the deceased employee since had given the application in time and in proper format, that was considered by the respondent TANGEDCO and compassionate appointment order was given to the son of the deceased employee. However, as the appointment was given to the post of Field Worker to the son of the deceased employee, who was B.E., MBA., graduate, he thought of not taking up the job as it may not be befitting to his educational qualification. Therefore, he wanted the said job offered by the TANGEDCO to be given to his sister ie., the appellant.

17. The reason stated by the respondent counsel was that the son who was



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offered the appointment was born out of the first wife of the deceased employee and the present appellant is the daughter of the second wife of the deceased employee. That would not make any difference as both of them are the legal heirs of the deceased employee.

18. Moreover, the reason that once the application was considered and job was offered, the issue was closed and therefore second time application cannot be entertained as it is not permissible is concerned, this Court feels that it is not the second time the application has been made as the original application that has been made within the time seeking job for the son of the deceased employee. Therefore, the indigent circumstances of the family having been considered, TANGEDCO had come forward to give such appointment to the son of the deceased employee and that was refused by the son because the job offered by TANGEDCO is not befitting to his educational qualification and therefore he wanted the job to be given to his sister, who is also one of the legal heirs of the deceased employee.

19. Only in order to confirm the said desire of the brother of the appellant, the said representation had been given by the appellant on 31.10.2011. Therefore, that representation dated 31.10.2011 cannot be treated as a fresh application, as it is only a continuous process of the earlier application submitted by the son of the deceased employee.



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20. Therefore, the only reason cited in the order dated 11.01.2012 based on this factual matrix would not be sustained. Insofar as the long period of 15 years have gone since the expiry of the employee is concerned, we wanted to verify the present status of the family and that is why we directed the appellant to get a certificate from the Tahsildar and the Tahsildar, Mettupalayam has given a certificate dated 01.09.2023, where the Tahsildar has given the certificate that the family is in indigent circumstances as there is no movable or immovable assets to the family members.

21. Therefore, it has become evident that the family is still in indigent circumstances. Therefore, the purpose of offering compassionate appointment is to bail out the family from indigent circumstances, as the only bread winner of the family since suddenly left without making any arrangements to the family members to survive and that circumstance is still prevailing in the family of the appellant as per the certificate issued by the Tahsildar concerned, we feel that it is a deserving case, where the respondent TANGEDCO can re-consider the issue and may offer compassionate appointment suitable to the educational qualification of the appellant.

22. In this context, it is further to be noted that in the said representation dated 31.10.2011, where the appellant has sought for compassionate appointment, where she has not made any condition that she should be given any higher job and therefore, the job already offered to the brother of the appellant ie., Field Worker



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itself or any other equivalent job can be offered to the appellant. That would be of great help to the family of the appellant to come out of the indigent circumstances.

23. Since these aspects have not been considered in proper perspective by the learned Judge before passing the impugned order, we are inclined to interfere with the said order dated 20.10.2017 passed by the writ Court. In the result, the following orders are passed.

- The impugned order dated 20.10.2017 made in W.P.No.20717 of 2017 is set aside.
- As a sequel, the order passed by the respondent TANGEDCO dated 11.01.2012 is also set aside and the matter is remitted back to the respondent TANGEDCO for reconsideration.
- While reconsidering the request of the appellant seeking for compassionate appointment, the latest certificate issued in this regard by the Tahsildar, Mettupalayam dated 01.09.2023 shall be taken into account, including the discussion we have made herein above.



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- The needful as indicated above shall be undertaken by the respondent TANGEDCO within a period of eight weeks from the date of receipt of a copy of this order.

23. With the above directions, the writ appeal is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

[R.S.K.,J..] [K.B.,J.]

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Index : Yes/No
Internet : Yes/No
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R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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