

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 11-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.18602 OF 2015

A.Kalaivani

...

Petitioner

-vs-

1.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board (Now TANGEDCO),
Anna Salai,
Chennai.

2.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Villupuram.

3.The Superintending Engineer,
Kallakurichi Electricity Distribution Circle,
TANGEDCO, Kallakurichi,
Villupuram DisitRICT. ...

Respondents

Writ Petition has been filed, praying for issuance of a writ of declaration, declaring the orders of rejection passed by respondents 2 and 3, dated 28.07.2003 and 19.08.2015 respectively, are illegal and consequently direct the respondents to give the benefits given in the order passed by this Court in W.A.(MD).No.682 of 2010, dated 02.07.2013, and consequently provide job assistance on compassionate grounds.

For petitioner : Mr.B.Manoharan

For respondents : Mr.Fakkir Mohideen

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The father of the petitioner was in the service of the then Tamil Nadu Electricity Board, which is now TANGEDCO, and he died in harness on 30.07.2000, leaving behind the petitioner, her mother and her elder sister, namely, Kalaiselvi. The mother of the petitioner had approached the respondent Board, seeking employment, on compassionate grounds in respect of her elder daughter, Kalaiselvi, who is the elder sister of the petitioner, vide an application, dated 18.07.2003, and it was rejected by the second respondent on 28.07.2003, on the ground that she had not completed the age of 18 years.

3. On the petitioner attaining the age of majority in the year 2014, the mother of the petitioner submitted an application, dated 13.08.2014, seeking compassionate appointment to the petitioner, and it was also rejected, for the reason that the application was not submitted within a period of three years. Challenging the legality of the said order, the present Writ Petition has been filed.

4. Learned counsel for the petitioner would contend, that originally, as per the legal heir certificate issued during September, 2000, Kalaiselvi was aged about 10 years and the petitioner Kalaivani was aged about 6 years and, on Kalaiselvi attaining the age of 18 years, the mother of the petitioner submitted necessary application on 18.07.2003 for compassionate appointment, but the same was rejected on 28.07.2003, stating that Kalaiselvi had not completed the age of 18 years and, at that time, the petitioner herein, who is the second daughter of the deceased employee, was aged about 9 years, and, on she attaining the age of majority, an application was submitted on 13.08.2014, seeking compassionate appointment to the petitioner, and it was also rejected by the second respondent on 19.08.2014, on the ground, that the said application was not presented within a period of three years, and, therefore, the reasons assigned in the impugned orders, are per se illegal, unsustainable and prays for interference of this Court. He has drawn the attention of this Court to orders of this Court passed in (1) W.P.No.25926 of 2010, dated 25.11.2010, and (2) W.A.MD.No.682 of 2010, dated 02.07.2013.

5. Per contra, the learned Standing Counsel, appearing for the respondents, by drawing the attention of this Court to the counter affidavit filed by the third respondent, would submit, that admittedly, the application submitted for seeking compassionate appointment in respect of Kalaiselvi was rejected on 28.07.2003, and it was open to the petitioner at the relevant point of time to re-submit the application, after the said person had attained majority, which was not done, but, instead, on 13.08.2014, the petitioner, namely, Kalaivani, filed another petition, seeking compassionate appointment, and the delay of 11 years has not been properly explained.

6. It is the further submission of the learned Standing Counsel that the underlying object for providing compassionate appointment is to tide over the immediate financial crisis and, in the facts and circumstances of the case, it cannot be said that the petitioner is under the indigent circumstances, and hence prays for dismissal of the Writ Petition.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. It is a well settled position of law, that compassionate appointment cannot be considered as a source of employment. The underlying principle and object is to tide over the immediate financial crisis in the family, due to the death of the employee, who is the sole bread winner.

9. The facts of the judgments relied upon by the learned counsel for the petitioner would disclose that immediate and necessary steps have been taken by the petitioners therein to challenge the orders of rejection, and, in those facts and circumstances, orders came to be passed, directing the Board to consider the claim, seeking for compassionate appointment.

10. Undisputably, in the case on hand, the application submitted on behalf of Kalaiselvi on 18.07.2003 was rejected by the Board on 28.07.2003, on the ground that she had not completed the age of 18 years. It was also open to Kalaiselvi to re-submit her application, immediately after the completion of 18 years, but, it was not done. After waiting nearly for 11 years, the second daughter of the deceased employee, who is the petitioner herein, has submitted another application on 13.08.2014, seeking compassionate appointment, and it was rejected on 19.08.2014.

11. In the light of the facts of this case, the second application submitted by the petitioner cannot be construed as a continuing cause of action, for the reason, that on rejection of the application of Kalaiselvi, she did not submit a fresh application after completion of 18 years of age and failed to make a challenge to the said order of rejection, dated 28.07.2003.

12. The father of the petitioner died on 30.07.2000 and, for nearly 15 years, his family is able to carry on normal avocation and, therefore, it cannot be said that the family continues to be under indigent circumstances.

13. This Court, after consideration of the rival submissions and on perusal of the materials placed before it, is of the considered view, that the application submitted by the petitioner, seeking for compassionate appointment, was not proximate to the time of death of her father, the sole bread winner. Hence, this Court finds no merit in the Writ Petition, which is, accordingly, dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

dixit

To

1.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board (Now TANGEDCO),
Anna Salai,
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TANGEDCO, Kallakurichi,
Villupuram Disitric.

1 cc to Mr.M.Fakkir Mohideen , Advocate Sr.No.42094

W.P.No.18602/2015

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pmk.25.6.2015



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