

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.20137 of 2015

Thirumaniraja

...Petitioner

-Versus-

The Superintending Engineer,
Electricity Distribution Circle,
TANGEDCO,
Kallakurichi.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the proceedings of the respondent in Ka.No.2014/Adm2/U-5/Koo.Va.Vaa/2015 dated 18.06.2015 and to quash the same and consequently direct him to provide for a job assistance on compassionate ground in the light of the order dated 20.09.2010 made in W.P.No.23561 of 2009.

For petitioner : Mr.B.Manoharan

For Respondent : Mr.Fakkir Mohideen

ORDER

The petitioner challenges the impugned order passed by the respondent refusing to provide for employment assistance on the compassionate ground.

2. The case of the petitioner is that his mother was employed in the respondent corporation as RWE and she died on 17.07.2012 while she was in service leaving behind him (petitioner) and his younger brother and a sister as legal heirs. His father predeceased her mother. He studied upto 4th standard only. While so, he applied to the respondent for suitable job on compassionate ground on 19.05.2015. But, the respondent by his impugned proceedings refused to provide employment on compassionate ground.

Hence, this writ petition.

3. I have heard Mr.B.Manoharan, the learned counsel for the petitioner and Mr.Fakkir Mohideen, the learned standing counsel who takes notice for the respondent and also perused the records carefully.

4. In the instant case , admittedly, the petitioner sought for employment assistance on compassionate ground on account of death of her mother and he was not provided employment on the ground that he has not passed 8th standard.

5. There is no dispute that the service regulations governing the employment in the respondent corporation provide for a pass in 4th standard for appointment to certain posts as educational qualification. Moreover, the same Regulations provide not even for pass in 4th Standard as the required qualification for certain posts and requires only ability to read and write Tamil. Further, the Contract Labourers were absorbed without insisting educational qualification by B.P.No.17(F3) Secretariat Branch, dated 28.04.1999 and B.P.Ms.(F3) No.38, Administrative Branch, dated 23.05.1986.

6. Earlier, I have dealt with the similar issue in A.Sakila Banu v. The Chariman, TNEB, Chennai [W.P.No.23561 of 2009 dated 20.09.2010] elaborately, wherein, in paragraphs 25 to 29, I have held thus:-

25. But the Regulations provide for pass in 4th Standard and ability to read and write in Tamil for certain posts. In this regard, the learned counsel for the petitioner heavily relied on Note-5 to Annexure III of the Regulations. The details of posts that require only IV standard and ability to read and write in Tamil are extracted hereunder as per Annexure III of the Regulations.

"94.Qualifications:

(a) No person shall be eligible for appointment to the post and by the method mentioned in Annexure III, unless he possesses the qualification specified therein.

ANNEXURE III

Post	Qualification
Groundsman 'A'	Pass in IV Standard
Groundsman 'A'	with one year practical experience in the type of work concerned.
Lascar , Grade I	
Lascar, Grade II	
Vehicle Helper	
Nursing Orderly	
Mazdoor, Grade I	Pass in IV Standard
Mazdoor, Grade II	with one year practical experience in the type of work concerned
Coal Mazdoor	-do-
Laboratory Helper	-do-
Messenger Boy	-do-
Gurkha Watchman	-do-
Matty - cum- Watchman	-do-
Watchman	Ability to read and write Tamil
Gardener	-do-
Sweeper	-do-
Sanitary Worker	-do-

"Note-5: The qualification of "Ability to read and write Tamil" prescribed for the posts of Watchman, Gardener, Sweeper and Sanitary Workers, will not be applicable to the appointment of dependents of employees who die in harness."

26. As rightly contended by the learned counsel for the petitioner 18,000 contract workers, who were not qualified, were absorbed as Helpers pursuant to the report dated

11.02.1991 of the Honourable Mr. Justice V.Khalid, former Judge of the Honourable Supreme Court, without age restriction and without reference to educational qualification. The contract labourers numbering 9095 employed in all thermal power stations were absorbed as Helpers by the respondent-Board in B.P.(FB) No.17, Secretariat Branch, dated 28.04.1999, without age restriction and without reference to educational qualification and the contract workers employed in Hydro Generation Circles, Basin Bridge and Narimanam Gas Turbine Stations, numbering 1002 were absorbed as Helpers, though most of them were not qualified to hold the post, by the respondent Board in B.P.(FB) No.22, Secretariat Branch, dated 14.05.1999 without age restriction and without reference to educational qualification.

27. Therefore, it is very clear that the respondents, without applying their mind, rejected the request of the petitioner for compassionate appointment on the ground that the petitioner did not possess the qualification of 8th Standard. The Regulations makes it very clear that for the post of Office Helper alone, the candidate should possess 8th Standard as educational qualification. But for the post of Gardener, Sweeper and Sanitary Worker, no educational qualification is prescribed and the only required qualification is ability to read and write in Tamil. For compassionate appointment, even the said qualification is dispensed with.

28. Note -5 to Annexure III of the Regulations makes it very clear that for giving appointment as Gardener, Sweeper and Sanitary Worker, the dependents of the deceased employee need not have submitted that Note-5 to Annexure III of the Regulations is not applicable to the dependents of the deceased, who die in harness, by reading in isolation the words "will not be applicable to the appointment of dependents of employees who die in harness" in Note-5. Such an interpretation is absurd. Note? has to be read in its entirety. Note-5 makes it clear that the qualification of ability to read and write in Tamil prescribed for the post of Gardener,

Sweeper and Sanitary Worker will not be applicable to the dependents of the deceased employee, who die in harness.

29. Further, as rightly contended by the learned counsel for the petitioner, the respondents granted exemption for educational qualification to some others, while granting compassionate appointment, by issuing the following proceedings.

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|--|--------|-----------|-------|
| (i) | (Per.) | B.P.(F.B) | No.52 |
| (Administrative Branch) dated 01.11.2007 | | | |
| (ii) | (Per) | B.P.(F.B) | No.1 |
| (Administrative Branch) dated 22.02.2008 | | | |
| (iii) | (Per.) | B.P.(F.B) | No.10 |
| (Administrative Branch) dated 17.04.2008." | | | |

7. Considering the facts and circumstances of the instant case and in the light of the above position, this court is inclined to allow this writ petition.

8. In the result, this writ petition is allowed and the impugned order of the respondent is set aside and the respondent is directed to provide for a suitable employment assistance to the petitioner on compassionate ground based on his 4th standard qualification, if he is otherwise qualified. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

kmk

To

The Superintending Engineer,
Electricity Distribution Circle,
TANGEDCO, Kallakurichi, Villupuram District.

- 1 CC to Mr.B.Manoharan, Advocate SR.No.
1 CC to Mr.Fakkir Mohideen, Advocate SR.No.

W.P.No.20137 of 2015

EV (CO)

PSI (24/08/2015)