

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.10997 of 2014

P.Pratap

.. Petitioner

vs.

1.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Annasalai,
Chennai-600 002.

2.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Gandhi Nagar,
Vellore-6.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in 1) Letter No.033222/513/Ni.Pi.3/Vu5/06 dated 8.12.2006, 2) Letter No.0058031/1254/Ni.Pi.3/E.Ni.Vu/2010 dated 13.04.2010 and 3) Letter No.22096/1365/Ni.Pi.3/E.Ni.Vu/2010-1 dated 24.08.2010 on the file of the 2nd respondent, quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate ground.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.Fakkir Mohideen
Standing Counsel for TNEB

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order of rejection passed in 1) Letter No.033222/513/Ni.Pi.3/Vu5/06 dated 8.12.2006, 2) Letter No.0058031/1254/Ni.Pi.3/E.Ni.Vu/2010 dated 13.04.2010 and 3) Letter No.22096/1365/Ni.Pi.3/E.Ni.Vu/2010-1

dated 24.08.2010 on the file of the second respondent, quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate ground.

2. The father of the petitioner, namely T.Poongavanam while was working as Accounts Assistant in Katpadi Revenue Branch, Gandhi Nagar, Vellore-632 006, died on 07.02.2004 due to heart ailment and at the time of death, his father was aged about 48 years and at that time, the petitioner was 13 years old. Since his mother was also ailing, she could not make application for employment under compassionate ground and hence, she made an application to the second respondent on 12.08.2006 requesting to give employment to the petitioner/son under compassionate ground. However, the second respondent rejected the application of his mother, vide order dated 08.12.2006 on the ground that the petitioner did not complete 18 years of age. After completion of 18 years, the petitioner's mother preferred an application on 03.03.2010 seeking appointment to the petitioner on compassionate ground. However, the second respondent rejected the applications of the petitioner's mother, vide orders dated 13.04.2010 and 24.08.2010 stating that the application should have been made within three years from the date of death of his father and the petitioner did not complete 18 years on the date of demise of his father. The petitioner also preferred an appeal before the first respondent on 11.10.2010 and since no order was passed, came forward with this writ petition.

3. When the matter is taken up for consideration, Mr.S.Doraisamy, learned counsel appearing for the petitioner would submit that the petitioner was minor at the time of death of his father and therefore, he is not in a position to submit application seeking appointment on compassionate grounds and however, his mother has submitted application, which was not considered. The petitioner, after attaining majority, has filed application, which was also rejected and thereafter, the petitioner preferred appeal before the first respondent and it is kept pending and left with no other alternative, the petitioner has filed this writ petition. The learned counsel appearing for the petitioner relied upon a decision of the Division Bench of this Court in W.A.(MD).No.1400 of 2011 dated 16.12.2015 [S.Velraj v. The Superintending Engineer, TNEB, Tirunelveli and another] wherein it has been observed that three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently based on the facts and thus in the said writ appeal, direction was issued to the respondents therein to dispose of the petitioner application for appointment on compassionate ground.

4. The learned Standing Counsel appearing for the respondents/Board would submit that only if the application is made within a period of 3 years from the date of death of the employee, it would be considered, but here there is an inordinate delay in making the application. The learned Standing Counsel appearing for the respondents, in support of his submissions, placed reliance upon the Division Bench decision of this Court in *The Inspector General of Prisons, Tiruchirapalli District v. P. Marimuthu* [2016 (5) CTC 125] wherein it has been held that for entry into any service in the State, the minimum age is 18 years and no minor can be appointed to any service and therefore, he cannot make any application for appointment to any post in service and no post can be kept vacant for him, till he attain majority; posts which fall vacant have to be filled up as per the Recruitment Rules; Employment Assistance on Compassionate Appointment, is only a concession, extended to an eligible member of the family, to apply for a suitable post, in the service, in which the Employee/Government servant died in harness and it is not a right, which can be exercised by a minor on attainment of majority.

5. Keeping the submissions made on either side, I have gone through the entire materials placed before it.

6. I am of the opinion that each case has to be decided based on its facts and circumstances and insofar as the petitioner herein is concerned, the petitioner's father died on 07.02.2004 and thereafter, the mother of the petitioner submitted application on 12.08.2006 i.e., within three years from the date of date of death of her husband to the second respondent seeking appointment on compassionate ground and it was rejected vide order dated 8.12.2006. In this situation, the petitioner's mother, after the petitioner attaining majority, has submitted application, but the said application was also rejected, vide orders dated 13.04.2010 and 24.08.2010 and the petitioner also preferred appeal before the first respondent dated 11.10.2010 and the said appeal was not disposed of.

7. In the light of the above facts and circumstances, I am of the opinion that since the petitioner's mother has already approached the respondents within the limitation period of three years and even the petitioner also, after attaining majority, was continuously approaching the respondents seeking appointment on compassionate grounds, instead of quashing the impugned order, a direction may be given to the respondents to consider the claim of the petitioner.

8. In the result, this Writ Petition is disposed of and the petitioner is permitted to give fresh application/representation

to the respondents and the respondents, on receipt of the same, are directed to reconsider the application submitted by the petitioner and pass appropriate orders with regard to reviewing its earlier order, within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Annasalai,
Chennai-600 002.

2.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Gandhi Nagar,
Vellore-6.

+1cc to Mr.S. Doraisamy, Advocate, S.R.No.61338

nr(CO)
md(24/11/2016)

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