

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

WRIT PETITION No.2974 of 2014

E.Manikandan

... Petitioner

vs.

1. The Tamil Nadu Electricity Board,
rep. by its Chairman,
No.800, Anna Salai,
Chennai 600 002.
 2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002.
 3. The Superintending Engineer,
Chengalpattu Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Chengalpattu.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records of the order of the 3rd respondent herein vide his proceedings in Letter No.05698/280/Ni.Pi.3/Udhavi3/2006, dated 16.10.2016 and quash the same as illegal, arbitrary, unreasonable being violative of the rules and principles of natural justice and thereby direct the respondents to give appointment to the petitioner on compassionate grounds in any suitable post commensurate with his qualification, consequent on the death of his father on 04.11.1999 while in service of the respondent/Board.

For Petitioner : Mr.J.Muthukumaran
For Respondents : Ms.R.Varalakshmi

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order of the 3rd respondent herein vide proceedings in Letter No.05698/280/Ni.Pi.3/Udhavi3/2006, dated 16.10.2016 and for a consequential direction to the respondents to give him appointment on compassionate grounds in any suitable post commensurate with his qualification.

2. According to the petitioner, his father, who was serving as a Wireman under the Tamil Nadu Electricity Board, expired on 04.11.1999, while in service, leaving behind him (i) Bhavani (Wife), (ii) Govindammal (Elder daughter), (ii) Sarathkumar (son) and (iii) Manikandan (son), i.e. the petitioner, as his legal heirs. At the time of death of his father, the petitioner was a minor aged 12 years and his elder sister Govindammal, was also a minor, aged 15 years. Hence, they could not apply for appointment on compassionate grounds. However, his mother applied for appointment on compassionate grounds to the 3rd respondent, within three years. After verification, her request was negatived by the 3rd respondent vide proceedings dated 01.09.2001 on the ground that she does not possess the minimum educational qualification of 8th standard. On attaining majority, the petitioner submitted an appeal to the 1st respondent on 12.11.2007 seeking compassionate appointment. But, the 1st respondent has not chosen to pass any orders on his appeal. Hence, the petitioner has approached this Court by way of the present Writ Petition.

3. When the matter is taken up for hearing, learned counsel for the petitioner, drawing attention to a judgment passed by this Court in an identical circumstance, in W.P.No.9230 of 2011, on 02.09.2014, submitted that the petitioner's grievance would be redressed if the respondents are directed to consider the claim of the petitioner on seniority basis.

4. Per contra, learned counsel appearing for the respondents/Electricity Board submitted that when the earlier petition of the petitioner's mother seeking compassionate appointment has been rejected on the ground that she lacks required educational qualification, now the petitioner cannot seek compassionate appointment. It is further submitted by the learned counsel for the respondents that though the petitioner has attained majority, his claim of compassionate appointment cannot be considered now, after a lapse of nearly 17 years.

5. Irrespective of the submissions made by the learned counsel appearing on either side, this Court is of the opinion that since it is the grievance of the petitioner that his appeal is pending with the 1st respondent without being considered, a

direction could be given to the 1st respondent to consider the claim of the petitioner. Hence, this Court directs the petitioner to give a fresh representation to the respondents along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the claim of the petitioner in view of the Proceedings of the Electricity Board vide B.P.No.17, Administrative Branch, dated 01.11.2011 and in view of the order dated 02.09.2014 passed by this Court in W.P.No.9230 of 2011, on merits and in accordance with law and pass appropriate orders within a period of eight weeks.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

aeb

To:

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai 600 002.
2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Chengalpattu Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Chengalpattu.

+1cc to Mr.T. Muthukumaran, Advocate, S.R.No.62436

ks(CO)
md(02/12/2016)

W.P.No.2974 of 2014