

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A. No. 44 of 2016
and
CMP No.494 of 2016

1. The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-600 009.
2. The Superintending Engineer,
Thiruchirapalli Electricity Distribution Circle (North),
Thiruchirapalli.
3. The Assistant Executive Engineer,
(Operation and Maintenance),
TNEB, Thirumanur-621 715
Ariyalur District. ... Appellants/Respondents

Vs.

P.Veeramani ... Respondent/Petitioner

Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the order dated 27.07.2012 passed in W.P.No.29325 of 2010 by the learned single Judge of this Court.

W.P.No.29325 of 2010 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to order of the 1st respondent in No.140871/1052/G102/2005/ dated 17.3.2006 and proceedings of 2nd respondent letter No.02647/0233/Nee. Pee.1/U.4/Kho.Va.Ve/2006, dated 9.3.2006 quash the same and direct the respondents herein to appointment the petitioner on compassionate Ground in any one of the suitable post TNEB within the Jurisdiction of 2nd respondent.

For Appellant : Mr.M.Fakkir Mohideen

For Respondents : Mr.S.N.Ravichandran
for M/s.R.Arunmozhi

JUDGMENT
(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This Writ Appeal has been directed against the order of the learned single Judge passed in W.P.No.29325 of 2010 dated 27.07.2012, in and by which, the appellants were directed to consider the respondent's claim for appointment on compassionate grounds.

2. It appears that the respondent herein made an application to the 3rd appellant herein on 29.4.2002, seeking appointment on compassionate grounds since his father who was employed as an Assessor in 3rd respondent unit, died in harness on 2.1.1995. By communication dated 9.3.2006, the second appellant informed the respondent that the application of the respondent for appointment on compassionate grounds could not be considered in view of the proceedings of the Chief Engineer, dated 24.5.2003, wherein, the reason for rejection of the appointment was stated that the respondent had not attained 18 years of age before 12.10.1998 as fixed by the Board and that the application was not made within three years from the date of the death of the employee. Aggrieved by the same, the respondent filed the writ petition.

3. The learned Judge has entertained the writ petition and held that the issue involved in the writ petition was no longer res integra in view of the decision of this Court in "J.Jeba Mary versus The Chairman, TNEB and others" reported in (2011(3) LLN 405 (Mad.) and accordingly, allowed the writ petition, directing the appellants to consider the claim of the respondent for appointment on compassionate grounds. Questioning the same, the present writ appeal has been preferred.

4. At the outset, we are not inclined to entertain the writ appeal on the ground of laches since after a lapse of four years from the date of the order of the learned single Judge, the appellant authorities have come forward with the present appeal. As regards the merits, we do not find any reason to interfere with the considered order of the learned Judge. In fact, the learned Judge, having followed the decision of this Court in "J.Jeba Mary case" (cited supra), held that the issue was no longer res integra. This was rendered while referring to the decision reported in "T.Meer Ismail Ali versus TNEB" (2004(3) CTC 120 wherein, the claim of appointment on compassionate grounds was rejected on similar ground that the incumbent had not completed 18 years of age and that the application which was made after completion of 18 years, was not within three years from the date when the Board proceedings dated 13.10.1995 was issued. This Court, having considered the technical plea raised by the Board, set aside the order of rejection and directed the Board to provide employment on compassionate grounds.

Thereafter, challenging this order, the Board preferred a writ appeal, which was dismissed by the Division Bench of this Court and consequently, SLP preferred by the Board also came to be dismissed by the Supreme Court, which resulted in providing the compassionate employment by the Board. In this case also, very similar grounds were raised, which were rightly rejected by the learned Judge and granted the relief. On going through the citation placed on behalf of the appellant, we are of the view that the said decisions would stand on different footing, which cannot be made applicable to the present case. The very purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress, without harping on technicalities.

5. In view of the above, we do not find any irregularity or infirmity in the order of the learned single Judge in order to interfere with the same. Accordingly, the Writ Appeal fails and it is dismissed. No costs. Consequently, connected CMP is closed. The appellant authorities are directed to consider the claim of the respondent and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 009.
2. The Superintending Engineer,
Thiruchirapalli Electricity Distribution Circle (North),
Thiruchirapalli.
3. The Assistant Executive Engineer,
(Operation and Maintenance),
TNEB, Thirumanur-621 715
Ariyalur District.

+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.59957

+1cc to Mr.R.Arunmozhi, Advocate, S.R.No.59494

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VD(CO)

CA(08/12/2016)

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