

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.573 of 2016

Karunambal

... Appellant

Vs.

1.The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai - 2.

2.The Superintending Engineer,
Perambalur Electricity Distribution Circle,
TANGEDCO, Perambalur. ... Respondents

Writ Appeal filed under clause 15 of the letters patent against the order dated 18.02.2016 made in W.P.No.5941 of 2016 Petition filed under Article 226 of the constitution of India, praying for the issue of a Writ of certiorarified mandamus calling for the records in Ka.No.131089/Adm 1/ U-4/ Koo.Va. Vaa./2016 dated 19.1.2016 on the file of the 2nd respondent herein and quash the same and consequently direct the respondents to provide job assistance on compassionate ground.

For Appellant : Mr.B.Manoharan

For Respondents : Mrs.R.Varalakshmi

JUDGMENT

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

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

2.This Writ Appeal is filed as against the order of the learned Single Judge dated 18.02.2016 passed in W.P.No.5941 of 2016.

3.The appellant's husband late Palanisamy died while he was in service leaving behind the appellant and her three daughters. The appellant/petitioner applied for job on compassionate ground to her last daughter, namely, Buvaneswari along with all necessary documents including her educational certificates. But the same was rejected by the second respondent by order dated 19.01.2016 on the ground that she was married on the date of application. Aggrieved by the said order of rejection, the appellant herein/writ petitioner filed writ petition No.5941 of 2016, seeking to quash the order passed by the second respondent on 19.01.2016 and consequently, to direct the respondents to provide job on compassionate ground.

4.The learned Single Judge observed that even on merits this Court has already settled the issue that the married daughters are not entitled to get the benefit of compassionate appointment and it was also stated that it is not known as to why the appellant/petitioner has not chosen to seek employment in respect of the first two daughters. Therefore, the learned Single Judge dismissed the writ petition stating that this Court is not inclined to entertain the writ petition seeking for compassionate appointment only to the third daughter of the petitioner, who is also married.

5. As far as the appellant's request seeking compassionate appointment to her third daughter is concerned, as held by the learned Single Judge, the appellant does not seek the same towards the first two daughters and she did not specify in her affidavit anything about the said two daughter's husband and even whether the appellant is leading a penurious life. On such reasons, the Writ Petition came to be dismissed. Aggrieved by the order of the learned Single Judge, the appellant/writ petitioner has filed the present Writ Appeal.

6. It appears that the prayer sought for in the writ petition is to quash the rejection order of the respondents and consequently to direct the respondents to provide job assistance on compassionate ground.

7. This Court, while considering the entitlement of married daughter in the order dated 08-12-2014 in W.P.No.22709 of 2014 (P. Kamatchi Vs. The State of Tamil Nadu and another) has held as under:

“ 3. The case of the petitioner is that the petitioner was married only on 20.08.2012 and as such, she is entitled to be considered subject to certain conditions, which are prescribed in the said G.O1. On perusal, it appears that the petitioner has one younger sister by name

Thamizharasi. It is not clear as to whether her younger sister is eligible for appointment or not? However, the petitioner even if she is a married daughter of the deceased employee, she is entitled to consideration subject to certain conditions as stated in the said G.O. The said G.O. reads as under :

Orders are issued with the following conditions for the issuance of appointments among those persons, mentioned as near relatives of the Government Servant, who died in harness, as per G.O 4th read above, and by virtue of being an unmarried woman, having submitted an application, seeking appointment, and who subsequently got married before being issued appointment, if they otherwise fulfill other eligibilities for their appointment on compassionate grounds.

(i) 'No Objection Certificate' from the remaining members of the family, while being an unmarried woman and after marriage when such woman is issued appointment, again a 'No Objection Certificate' from the remaining members of the family shall be submitted.

(ii) The individual who gets appointment opportunity after being married, shall submit an undertaking to the effect that they shall be helpful to their parents' family.

(iii) The person who is going to marry the woman, who has sought appointment on compassionate grounds, shall furnish an undertaking that he shall not cause hindrance in helping her parents in future.#

3. The ratio which arises from the afore-stated observation is, that a married daughter is eligible for consideration subject to submission of 'no objection certificate' of other members of the deceased family and also with an undertaking from her and her husband that she will take care of the other members of the parents' family."

4. In the light of the above stated decision of this Court, (P. Kamatchi Vs. The State of Tamil Nadu and another), the controversy raised in the writ appeal is no longer res integra. The ratio which arises from the afore-stated observation is, that a married daughter is eligible for consideration subject to submission of 'no objection certificate' of other members of the

deceased family and also with an undertaking from her and her husband that she will take care of the other members of the parents' family. In such circumstances, the appellant is directed to submit one more application directly to the Superintending Engineer of the concerned circle, who in turn, shall take note of the observation made in the present writ appeal and pass necessary orders in accordance with law after considering the request made by the appellant herein.

5. The above said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that the appellant should submit a consent letter from the other two daughters while seeking employment assistance to one of the daughters to whom the appellant is intended to offer.

6. In the result, the order of the learned Single Judge is set aside. The writ appeal is disposed of, with the above observation. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai - 2.

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

Writ Appeal No.573 of 2016

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