



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.11594 of 2014
and M.P.(MD) No.2 of 2014

A.Vijayakanth

... Petitioner

vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
14, Anna Salai, Chennai - 2.
- 2.The Chief Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Trichy Region, Trichy.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Trichy Electricity Distribution Circle (City),
Post Box No.851,
Mannarpuram, Trichy - 20.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the proceedings of the 3rd respondent in Letter No.03924/703/NeePee.1/ENeeOu/Koo.Vaa.Veae/2009 dated 02.03.2009, Letter No.000910/736/-/Nee.Pee.1/E.Nee.Ou/Koo.Vaa.Veae/2012 dated 06.02.2012 and Letter No.00096662/268/NeePee.1/ENeeOu/Koo.Vaa.Veae/2014 dated 24.06.2014 quash the same and further direct the respondents to appoint the petitioner in the appropriate post according to the petitioner education on compassionate ground.

For Petitioner : Mr.P.Pethu Rajesh
For Respondents : Mr.M.Balasubramanian

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus, to call for the proceedings of the 3rd respondent in Letter No.03924/703/NeePee.1/ENeeOu/Koo.Vaa.Veae/2009 dated 02.03.2009, Letter No.000910/736/-/Nee.Pee.1/E.Nee.Ou/Koo.Vaa.Veae/2012 dated 06.02.2012 and Letter No.00096662/268/NeePee.1/ENeeOu/Koo.Vaa.Veae/2014 dated 24.06.2014 quash the same and further direct the respondents to appoint the petitioner in the appropriate post according to the petitioner's educational qualification on compassionate ground.

2.The petitioner's father is one Andi. Before his death, he was serving under the respondents as Line Man. He died in harness on 19.08.1993 leaving behind the entire family. By the time when



the petitioner's father died, he was aged 7 years. The petitioner's father was the only breadwinner of the family and he left the family in indigent circumstances. The application for compassionate appointment made by the petitioner's mother was rejected on the ground that she had not acquired the required qualification. The petitioner was the only member who was eligible to ask for appointment having regard to the age and qualification.

3.The petitioner's request for compassionate appointment has been rejected on the ground that the petitioner ought to have filed the application within a period of 3 years from the death of his father and hence his claim for compassionate appointment cannot be considered. This order is under challenge in this writ petition.

4.The learned counsel for the petitioner relied upon a decision of a Division Bench of this Court in **W.A. (MD) No.1400 of 2011, dated 16.12.2015**, wherein, in paragraphs 3 and 4, it has been held as under:

"3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However, taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for appointment on compassionate ground, on attaining majority, the respondents have to consider the appellant's application for appointment on compassionate ground.

4. In view of the above, the Writ Appeal is allowed and the order of the learned Single Judge and also the order of rejection for appointment on compassionate ground are set aside and the matter is remanded to the first respondent for fresh disposal, in the light of the judgment passed by this Court. Such exercise shall be completed, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs."



4. So far this case is concerned, the learned counsel for the petitioner would submit that the petitioner's family is living in a penurious circumstance and without considering the same the authorities have chosen to reject the claim for compassionate appointment.

WEB COPY

5. It is relevant to point out that the observation made in the same judgment that if the appellant applied for appointment on compassionate ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. This aspect has not been considered by the respondent at all. Under such circumstances, the order passed by the Division Bench of this Court in W.P(MD)No.1400 of 2011, dated 16.12.2015 is squarely applicable to the facts of this case also.

6. Accordingly, this Writ Petition is allowed and the impugned orders of the 3rd respondent in Letter No.03924/703/NeePee.1/ENeeOu/Koo.Vaa.Veae/2009 dated 02.03.2009, Letter No.000910/736/-/Nee.Pee.1/E.Nee.Ou/Koo.Vaa.Veae/2012 dated 06.02.2012 and Letter No.00096662/268/NeePee.1/ENeeOu/Koo.Vaa.Veae/2014 dated 24.06.2014 are set aside and the matter is remanded to the respondent for fresh disposal, in the light of the judgment of the Division Bench of this Court in **W.A. (MD)No.1400 of 2011, dated 16.12.2015**. Such exercise shall be completed, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P. (MD) No.2 of 2014 is closed.

Sd/-

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
14, Anna Salai, Chennai - 2.
2. The Chief Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Trichy Region, Trichy.
3. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Trichy Electricity Distribution Circle (City),
Post Box No.851, Mannarpuram, Trichy - 20.

+1 CC to Mr.P.PETHU RAJESH, Advocate, SR No.54535

W.P(MD)No.11594 of 2014
and M.P.(MD) No.2 of 2014
20.09.2016