



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.18184 of 2016

A.Abinaya Sindhu

... Petitioner

-vs-

1.The Chief Engineer (Personnel)

Tamil Nadu Generation and Distribution
Corporation Ltd.,
Anna Salai, Chennai.

2.The Chief Engineer (Distribution),

Tamil Nadu Generation and Distribution
Corporation Ltd., Madurai.

3.The Superintending Engineer,

Tamil Nadu Generation and Distribution
Corporation Ltd.,
Sivagangai Electricity Distribution Circle,
Sivagangai.

4.The Assistant Engineer (West)

Tamil Nadu Generation and Distribution
Corporation Ltd.,
Sivagangai Electricity Distribution Circle,
Thiruppuvanam,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in Ka.No.004108/105/Me.Po/Si.Mi.Pa.Va/Si.Va/Ni.A/Ni.Pi.2/U1/Ko.Va.Ve/2016, dated 6.6.2016 quash the same as illegal and consequently direct the respondents to appoint the petitioner Tamil nadu Generation and Distribution Corporation Ltd. in any suitable post on compassionate grounds depending upon the petitioners Educational Qualification.



For Petitioner : Mr.R.R.Kannan
For Respondents : Mr.R.Dhayalan

O R D E R

WEB COPY This writ petition has been filed challenging the order of the third respondent, dated 06.06.2015, by which, the third respondent has rejected the petitioner's application for compassionate appointment on the ground that the petitioner is a married person and also on the ground that the application was not submitted, within a period of three years from the date of death of the deceased.

2.The petitioner's father Anbalagan, who was a casual labourer under the fourth respondent, was regularised as a Masdoor under the fourth respondent. He died on 03.08.2011 in harness. The Tahsildar, Manamadurai, has issued legal heir certificate citing the petitioner's mother Krishnaveni and the petitioner herein as legal heirs of the deceased Anbalagan. **The petitioner's mother has originally submitted an application for appointment on compassionate ground on 02.07.2012.** This application is certainly within a period of three years from the date of death of the deceased. That application was rejected on the ground that the petitioner's mother is not qualified by possessing minimum educational qualification of passed in the 8th standard. As the petitioner's mother's application was rejected, the petitioner was constrained to submit a fresh application, dated 22.12.2014. Once again the said application has been pressed into service, by submitting the reminder application, dated 19.02.2015. This application should be construed as not an independent application, but an extension of the original application submitted by the mother, as the benefit is intended to the welfare of the family and not to the individual.

3.The first respondent has directed the third respondent to consider the petitioner's application on compassionate ground. The Tahsildar has also issued a certificate certifying the indigenous circumstances, under which, the petitioner's family has been placed. Therefore, there cannot be an impediment for the respondent to consider the application of the petitioner on compassionate ground. But unfortunately, the petition came to be rejected on the ground that the petitioner is a married daughter and therefore, she is not eligible for appointment on compassionate ground.

4. Pleading that freedom is indivisible so also justice, Justice V.R. Krishna Iyer Pleaded for gender justice, in the judgment reported at (1979) 4 SCC 260, Miss C.B. Muthamma, I.F.S. v. Union of India and others and stated thus:

"This writ petition by Miss Muthamma, a senior member of the Indian Foreign Service, bespeaks a story which makes one wonder whether Articles 14 and 16 belong to myth or reality. The credibility of constitutional mandates shall not be shaken by governmental action or inaction but it is the effect of the grievances of Miss Muthamma that sex prejudice against Indian Womanhood pervades the service rules even a third of a century after Freedom. There is some basis for the charge of bias in the rules and this makes the ominous indifference of the executive to bring about the banishment of discrimination in the heritage of service rules. If high officials lose hopes of equal justice under the rules, the legal lot of the little Indian, already priced out of the expensive judicial market, is best left to guess... The present petition illustrates that despite the passage of 34 years since this pronouncement and more than 65 years of independence later, the position remains the same.

6. At the first blush this rule is in defiance of Article 16. If a married man has a right, a married woman, other things being equal, stands on no worse footing. This misogynous posture is a hangover of the masculine culture of manacling the weaker sex forgetting how our struggle for national freedom was also a battle against woman's thralldom. Freedom is indivisible, so is justice. That our founding faith enshrined in Articles 14 and 16 should have been tragically ignored vis-a-vis half of India's humanity viz. our women, is a sad reflection on the distance between Constitution in the book and law in action. And if the executive as the surrogate of Parliament, makes rules in the teeth of Part III especially when high political office, even diplomatic assignment has been filed by women, the inference of die hard allergy to gender parity is inevitable."

5. The learned counsel for the petitioner relied upon the decisions of this Court in **R. GOVINDAMMAL v. THE PRINCIPAL SECRETARY, SOCIAL WELFARE DEPARTMENT AND OTHERS** reported in 2015

<https://hccer.west.bombay.gov.in/hccer/wccer/>

(3) **L.W. 756** and in **M. INDIRA v. DIRECTOR, INSTITUTE OF MENTAL HEALTH, KILPAUK, CHENNAI** reported in 2016 (5) MLJ 178,

under which, it has been held that the condition imposed stating that the petitioner daughter should be unmarried was held to be arbitrary and violative of Articles 14, 15(1) AND 16 (2) of the Constitution of India.

6.The dictum laid down in the above said decisions of this Court, has been followed in the subsequent decisions of this Court also. Under such circumstances, the impugned order, dated 06.06.2016 is hereby set aside and the respondents are directed to provide employment to the petitioner on compassionate ground subject to her educational qualification, within a period of four weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

- 1.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Ltd., Anna Salai, Chennai.
- 2.The Chief Engineer (Distribution),
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- 3.The Superintending Engineer,
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- 4.The Assistant Engineer (West)
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Sivagangai Electricity Distribution Circle,
Thiruppuvanam, Sivagangai District.

+1cc to M/s.R.R.Kannan, Advocate SR.No.64992

+1cc to M/s.S.Dhayalan, Advocate SR.No.65190

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