



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2016

C O R A M

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THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.21149 of 2016

C.Sathish

.. Petitioner

Vs.

1.The Chief Engineer,
Tamil nadu Generation and Distribution
Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
Tamil nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tiruchirappalli Electricity Distribution Circle,
Tiruchirappalli. .. Respondents

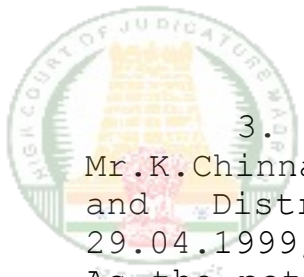
Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus call for the records pertaining to the impugned orders passed by the second respondent vide Lr.No.009338/252/Nipil/ENio/Kou.Va.Vae/ 2014, dated 21.06.2014 and Lr.No.018348/684/Nipil/Enio/ Kou.Va.Vae/ 2014, dated 13.11.2014 and consequential order passed by the office of the 1st respondent vide A.Cha.Ku.No.051638/217/G.10/G.102/2014-4, dated 31.12.2014 and quash the same and consequently direct the respondents to provide suitable employment to the petitioner on compassionate ground.

For petitioner ... Mr.D.Shanmugaraja Sethupathi
For Respondents ... Mr.M.Bala Subramanian

O R D E R

This writ petition has been filed challenging the orders of the second respondent, dated 21.06.2014 and consequential order of the first respondent, dated 13.11.2014, rejecting the request of the petitioner for appointment on compassionate ground and consequently, to direct the respondents to provide suitable employment to the petitioner on compassionate ground.

<https://hcservices.ecourts.gov.in/hcservices/> the learned counsel for the petitioner and the learned counsel for the respondents.



3. The case of the petitioner is that his father Mr.K.Chinnaiya was working as Helper in the Tamil nadu Generation and Distribution Corporation Limited (TANGEDDCO) and on 29.04.1999, he died due to electrocution, while he was in service. As the petitioner was a minor at the time of death of his father, his mother submitted an application seeking compassionate appointment, within three years from the date of death of his father. But, the second respondent rejected the said application on 23.01.2004 on the ground that the application was not submitted within three years.

3.1. Thereafter, after attaining the age of majority, the petitioner gave a representation dated 27.05.2011 seeking appointment on compassionate ground. The petitioner has completed graduation in Engineering (B.E., Electrical and Electronic Engineering). The said representation was rejected by the respondents on 21.06.2014 on the ground that the application was not submitted within three years. Thereafter, the petitioner once again submitted a representation dated 05.11.2014. The same was also rejected on 03.11.2016 on the same ground.

4. The learned counsel for the petitioner submitted that it is well settled position of law that as far as appointment in the Tamil Nadu Electricity Board is concerned, in case of minor, the period of limitation has to be reckoned only from the date of attaining majority and not from the date of death of the deceased and the above position of law was reiterated by this Court in catena of Judgments. It is further contended that even assuming that the claim of the mother is barred by limitation, even then the claim of the son, who was the minor at the relevant point of time is not barred by limitation, as it is submitted within three years from the date of attaining the majority.

5. The learned counsel for the petitioner relied upon the decision of the Division Bench of this Court in THE CHIEF ENGINEER, TAMIL NADU ELECTRICITY BOARD v. N.ELAVARASAN reported in 2013 (3) LLN 736, where under, it was held as follows:-

"In T.MEER ISMAIL ALI v. THE TAMIL NADU ELECTRICITY BOARD, CHENNAI, 2004 (3) CTC 120, a learned single Judge of this Court, now, Hon'ble Mr.Justice F.M.Ibrahim Kalifulla, Judge, Supreme Court of India, held as under:

"I am, therefore, of the view that the petitioner's case deserve consideration inasmuch as he had diligently made a claim once in the year 1997 and thereafter, immediately after attaining the age of 18, in the year 2000 and in such circumstances, rejection of his Application on the ground that it was not made within three years was not justified."

<https://hcservices.ecourts.gov.in/hcservices/>

6. The learned counsel for the petitioner has also relied upon the decision of the Division Bench of this Court in W.A.(MD)



No.1400 of 2011, dated 16.12.2015, wherein it has been held as follows:-

"3.It is admitted fact that the employer 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."

7.The learned counsel for the petitioner would submit that the order passed by the Division Bench of this Court in W.A.(MD) No.1400 of 2011 is squarely applicable to the facts of the present case.

8.Under such circumstances, following the order passed in W.A.(MD)No.1400 of 2011, the impugned orders passed by the second respondent vide Lr.No.009338/252/Nipil/ENio/ Kou.Va.Vae/ 2014, dated 21.06.2014 and Lr.No.018348/684/Nipil/Enio/ Kou.Va.Vae/ 2014, dated 13.11.2014 and consequential order passed by the office of the 1st respondent vide A.Cha.Ku.No.051638/217/G.10/G.102/2014-4, dated 31.12.2014 are hereby set aside and the respondents are directed to provide suitable employment to the petitioner on compassionate ground subject to his educational qualification, within a period of two weeks from the date of receipt of a copy of this order.

9.The writ petition is allowed. No costs.

Sd/

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.



To

1.The Chief Engineer,
Tamil nadu Generation and Distribution
Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai, Chennai 600 002.

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2.The Superintending Engineer,
Tamil nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tiruchirappalli Electricity Distribution Circle,
Tiruchirappalli.

+1CC to M/S.D.Shanmugaraja Sethupathi, Advocate, SR.No. 68226

Writ Petition (MD) No.21194 of 2016

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