



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.11.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P (MD) No.22327 of 2016
and W.M.P. (MD) No.16002 of 2016

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Tmt. C.Sumathi

... Petitioner

-vs-

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Tamil Nadu Electricity Board,
Chennai 600 002
 - 2.The Chief Engineer / Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Tamil Nadu Electricity Board,
Chennai 600 002
 - 3.The Superintending Engineer,
Pudukottai Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukottai 622 001
- ... 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 Letter No.13356/352/Ni Pil/Uthavi4/Ko.va.ve/2014-03, dated 14.10.2015, quash the same and consequently direct the respondents to provide employment to the petitioner in the services of the Tamil Nadu Electricity Board on compassionate grounds based on the educational qualification within the stipulated time that may be fixed by this Court.

For Petitioner : Mr. M.Saravanakumar

For Respondents : Mr. V.R.Shanmuganathan, Spl.G.P.,

O R D E R

This writ petition has been filed challenging the order of the third respondent, dated 14.10.2015, by which, the third respondent has rejected the petitioner's application for compassionate appointment on the ground that she has not passed eighth standard.

2. The petitioner's husband, Mr. K.Chandrasekaran was employed as Line Inspector (under the control of the respondents Board) and after rendering 16 years of service, he died on 20.12.2012, while in service leaving behind the petitioner and two daughters, as his legal heirs.

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2.1. The petitioner made a representation to the respondents with the request to sanction the service benefits and to provide an employment under compassionate grounds. On receipt of the same, the third respondent, sanctioned the service benefits in his

proceedings, dated 04.05.2013, but, has not stated anything with regard to the compassionate appointment of the petitioner.

2.2. Therefore, the petitioner submitted reminder applications to the third respondent on 11.12.2014 and 14.09.2015 and on receipt of the same, the third respondent has rejected the same stating that the petitioner has not passed the eighth standard. Challenging the said rejection order, this writ petition has been preferred by the petitioner.

3. The learned counsel appearing for the petitioner submitted that the Tamil Nadu Electricity Board Regulations categorically states that for the posts of Gardener, sweeper and sanitary worker, no educational qualification is prescribed and the only qualification is ability to read and write Tamil and for compassionate appointment, even the said qualification had been dispensed with in many cases. The learned counsel submitted that so far as the post of Office Helper alone, the candidate should possess 8th standard pass, as Educational qualification. The learned counsel further submitted that, however, the petitioner subsequently appeared and passed the Eighth Standard Examination (private study) in April 2016. Therefore, the learned counsel submitted that the petitioner is fully eligible for appointment on compassionate grounds.

4. There is no dispute that the service regulations governing the employment in the respondents Board provide for a pass in 8th standard for appointment to certain posts as educational qualification. Moreover, the same Regulations provide not even for a pass in 8th standard, as the required qualification, for certain other posts and the only requirement is ability to read and write Tamil. Further, the contract Labourers were absorbed without insisting upon educational qualification by B.P.No.17 (F3) Secretariat Branch, dated 28.04.1999 and B.P.Ms.(F3) No.38, Administrative Branch, dated 23.05.1986.

5. Moreover, this issue is also covered by a decision of this Court in **W.P.No.20137 of 2015 dated 08.07.2015 (Thirumaniraja vs. Superintending Engineer, TANGEDCO, Kallakurichi)**, wherein, earlier decision of this Court, in the case of **A.Sakila Banu v. The Chairman, TNEB, Chennai (W.P.No.23561 of 2009), dated 20.09.2010**, has been followed, where-under, without reference to educational qualification and age restriction, how contract labourers were absorbed in the Service by TANGEDCO:-

"25. But the Regulations provide for pass in 4th Standard and ability to read and write in Tamil for certain posts. In this regard, the learned counsel for the petitioner heavily relied on Note-5 to Annexure III of the Regulations. The details of posts that require only IV standard and ability to read and write in Tamil are extracted hereunder as per Annexure III of the Regulations.

"94.Qualifications:



(a) No person shall be eligible for appointment to the post and by the method mentioned in Annexure III, unless he possesses the qualification specified therein.

ANNEXURE III

WEB COPY Post

Qualification

Groundsman 'A'	Pass in IV Standard with one year
Groundsman 'A'	practical experience in the type of
	work concerned.
Lascar , Grade I	Pass in IV Standard with one year
Lascar, Grade II	practical experience in the type of
Vehicle Helper	work concerned.
Nursing Orderly	
Mazdoor, Grade I	
Mazdoor, Grade II	
Coal Mazdoor	-do-
Laboratory Helper	-do-
Messenger Boy	-do-
Gurkha Watchman	-do-
Matty cum- Watchman	-do-
Watchman Ability to read	
and write Tamil Gardener	-do-
Sweeper	-do-
Sanitary Worker	-do-

"Note-5: The qualification of "Ability to read and write Tamil" prescribed for the posts of Watchman, Gardener, Sweeper and Sanitary Workers, will not be applicable to the appointment of dependents of employees who die in harness."

26. ***As rightly contended by the learned counsel for the petitioner 18,000 contract workers, who were not qualified, were absorbed as Helpers pursuant to the report dated 11.02.1991 of the Honourable Mr. Justice V.Khalid, former Judge of the Honourable Supreme Court, without age restriction and without reference to educational qualification.*** The contract labourers numbering 9095 employed in all thermal power stations were absorbed as Helpers by the respondent-Board in B.P. (FB) No.17, Secretariat Branch, dated 28.04.1999, without age restriction and without reference to educational qualification and the contract workers employed in Hydro Generation Circles, Basin Bridge and Narimanam Gas Turbine Stations, numbering 1002 were absorbed as Helpers, though most of them were not qualified to hold the post, by the respondent Board in B.P.(FB) No.22, Secretariat Branch, dated 14.05.1999 without age



restriction and without reference to educational qualification."

6. The dictum laid down in the above said decision of this Court, has been followed in the subsequent other decisions of this Court also.

7. At this juncture, the learned counsel for the petitioner submitted that, after acquiring the qualification of 8th standard, the petitioner again submitted a representation dated 20.09.2016 to the respondents to consider her for appointment to any suitable post, on compassionate appointment.

8. Under such circumstances, the impugned order, dated 14.10.2015 passed by the third respondent is set-aside and the respondents are directed to dispose of the petitioner's representation dated 20.09.2016 and to provide suitable employment to the petitioner on compassionate ground, suitable to her educational qualification and without reference to limitation, within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Chairman,
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Pudukottai Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukottai 622 001

+1 cc to MR.M.SARAVANAKUMAR, ADVOCATE, SR NO:71935

SRK

SVA/PM/PN/15.02.2017/4P/5C

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