



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.23278 of 2016

T.Tamaraiselvi

... Petitioner

vs.

1.Tamil Nadu Electricity Generation and
Distribution Corporation Ltd., (TANGEDCO)
rep.by its Chairman and Managing Director,
144, Anna Salai, Chennai - 2.

2.The Superintending Engineer,
***Tirunelveli** Electricity Distribution Circle,
TANGEDCO,
Tirunelveli.

... Respondents

Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent in Ka.No.022940/575/Ni.A/Ni.P.3/Vu3/Ko.Va.Vellai/2016 dated 04.11.2016 and quash the same and further direct the respondents to provide her suitable employment in the respondents' department on compassionate basis without reference to marriage of the petitioner and appoint her within a reasonable time period to be fixed by this Court.

For Petitioner : Mr.N.Mohideen Basha
For Respondents : Mr.G.Kasinatha Durai

ORDER

By the order dated 04.11.2016, the application submitted by the petitioner, seeking appointment on compassionate ground was rejected on the ground that the petitioner is a married daughter. Challenging the same, this Writ Petition has been filed.

2.The petitioner's father was working as a Helper in the respondents Department and he died on 16.05.2015, while in service. The petitioner, who is the daughter of the deceased, made a representation dated 01.10.2016 to the respondents, seeking compassionate appointment, but the same was rejected on the ground that the petitioner has got married.



3. The learned counsel for the petitioner has relied upon the decisions in **R.Govindammal vs. The Principal Secretary, Social Welfare and Nutritious Meal Programme Department and 4 others**, reported in **2015 (5) CTC 344** and **M.Indra vs. Director, Institute of Mental Health, Kilpauk, Chennai**, reported in **(2016) 5 MLJ 178**, and contended that the issue raised in this writ petition is answered in the above cases, holding that married daughters are also entitled to compassionate appointment.

4. In **R.Govindammal vs. The Principal Secretary, Social Welfare and Nutritious Meal Programme Department and 4 others**, reported in **2015 (5) CTC 344**, this Court has held as follows:-

'27. In **Krishnaveni's** case (cited supra), I have referred to the statute, namely the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which places equal duty on both the son and daughter to take care of the parents at the old age and held that the daughters shall be treated alike the sons in providing compassionate appointment. Thus, in the matter of providing compassionate appointment, no distinction shall be made between a son and a daughter.

28. The case on hand is a classic case, wherein, the deceased Government servant has no male issue. Nowadays, it is a common thing that a family have a single child ; either male or female. Thus, if a Government servant has only daughter, as in this case, the widow of the Government servant cannot be stated that her married daughter could not be provided compassionate appointment, particularly, when she has to solely rely on her daughter. As stated above, Maintenance and Welfare of Parents and Senior Citizens Act, also now places equal responsibility on both the son and daughter to take care of their parents.'

5. In **M.Indra vs. Director, Institute of Mental Health, Kilpauk, Chennai**, reported in **(2016) 5 MLJ 178**, this Court has held as follows:-

'12. As per G.O.Ms.No.560, dated 03.08.1977, the State Government provides Compassionate Appointment to the wife/husband/son/unmarried daughter on the death of the Government Servant i.e., while the son of the deceased Government Servant is entitled to Compassionate Appointment without reference to marriage, the daughter is not treated equally in providing compassionate appointment and a condition is imposed that the daughter should be unmarried to claim compassionate appointment.



Later on, the said another Government Order was issued in G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010. In my view, such a scheme of compassionate appointment is arbitrary and violative of Articles 14 and also against Articles 15(1) and 16(2) of the Constitution of India.''

6.In view of the dictum laid down in those cases, this writ petition is allowed. The impugned order passed by the second respondent dated 04.11.2016 is quashed and the respondents are directed to consider the claim of the petitioner for appointment on compassionate grounds in the light of the abovesaid decisions and to pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

***Amended as per order of this
Hon'ble Court dt.21.02.2017**

Sub Assistant Registrar

To

**To be substituted order already
Despatched on 03.02.2017**

1.The Chairman & Managing Director,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd., (TANGEDCO)
144, Anna Salai, Chennai - 2.

2.The Superintending Engineer,
***Tirunelveli** Electricity Distribution Circle,
TANGEDCO,
Tirunelveli.

+1cc to M/s.G.KASINATHA DURAI, Advocate in SR. No.78714
+1cc to M/s.N.MOHIDEEN BASHA, Advocate in SR. NO.78511

MJ
Js/MR/UB/1.02.2017/3P-5C
SM:BS:28.02.2017:3p/5c

W.P (MD) No.23278 of 2016
02.12.2016