



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE **M. GOVINDARAJ**

W.P (MD) No.637 of 2011

K.Alaguvelan

... Petitioner

Vs.

1.The Chairman(Personnel),
Tamil Nadu Electricity Board,
N.P.K.R.R. Maaligai,
800, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
Madurai Electricity Distn. - Circle,
Tamil Nadu Electricity Board,
K.Pudhur,
Madurai -7.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Letter No.நி.அ /நி.பி.2 / உ.3/கோ.வா.வே ப.எண்.191/10 dated 08.10.2010 and quash the same as devoid of merits and directing the respondents to provide an employment to the petitioner based on his eligibility on the compassionate ground within the period stipulated by this Court.

For Petitioner : Mr.A.Hajamohideen

For Respondents : Mr.S.Dhayalan
Standing Counsel

O R D E R

The writ petition has been filed to call for the records of the second respondent in Letter No.நி.அ /நி.பி.2 / உ.3/கோ.வா.வே ப.எண்.191/10 , dated 08.10.2010 and quash the same as devoid of merits and direct the respondents to provide an employment to the petitioner on the compassionate ground based on his eligibility within the period stipulated by this Court.



2.The petitioner, who is an ex-service man, applied for appointment on compassionate ground. The father of the petitioner offered to retire voluntarily on medical ground as well as under the prevailing family circumstances and he was permitted to retire from service voluntarily with effect from 03.10.2002. In the year 2008, the National Highway Authority of India, in order to expand the National Highway, acquired the road margin lands of the properties of his parents, for which, they have granted a very meagre sums of Rs.1,86,067/- to his mother and Rs.2,15,764/- to his father. Hence, the petitioner made a representation in the year 2003 to the respondents seeking employment on compassionate ground, on the ground that the father of the petitioner, who retired on medical invalidation and on the another ground that the lands belonging to the petitioner's family were acquired by the National Highway Authority of India. Thereafter, the petitioner sent a detailed representation dated 21.08.2010 to the respondents seeking employment under special reservation quota as per B.P.Ms/FB 51 AB, dated 01.05.1984 (3355/84) குறிப்பாணை எண் : 25217, 278/R3-1/84-4, Adm.Br. dated 11.10.1984. P.768-8 of 10/84 and B.P.N.S.B.,/N.36, A.B. dated 26.06.1989 and on the ground of land acquisition. The second respondent, by his letter No.நி.அ / நி.பி.2 /உ.3/கோ.வா.வே ப.எண்.191/10 , dated 08.10.2010 rejected the representation of the petitioner stating that the petitioner has to send the application within a period of three years from the date of retirement of the employee, who retired on the ground of medical invalidation. Aggrieved over the same, the present writ petition has been filed by the petitioner.

3.The respondents have filed counter stating that the father of the petitioner, requested the respondent - department to retire him voluntarily. His request was accepted and he was permitted to retire from service voluntarily. Accordingly, he retired voluntarily from service as Foreman on 03.10.2002, due to family circumstances. It is further stated that there is no provision in the Tamil Nadu Electricity Board Service Regulations to provide employment assistance to the dependents of the employee, who are voluntarily retired from Board service due to various reasons and also whose lands have been taken over by National Highways Authority of India.

4.It is further stated in the counter affidavit that as per B.P.No.25, dated 09.10.2001, the employment assistance to the dependent of the Board employees, who retire on medical grounds is considered subject to the condition that the employee should have retired from service on medical grounds before attaining the age of 53 years. But, Krishnan, the father of the petitioner had retired at the age of 57 years. Hence, as per the above Board Service Regulations, the petitioner is not eligible to get appointment on compassionate ground.

5.The learned counsel for the respondent submitted that the appointment on compassionate ground will be given to the dependents when the employee passed away suddenly leaving the family at an indigent circumstances. Whereas, in the present case, the father of the petitioner had voluntarily retired from service at the age of 57 years and hence, the petitioner cannot seek appointment on compassionate ground.

6.In support of his submission, the learned counsel for the respondents produced a copy of the Board Proceedings No.25, dated 09.10.2001, in which, it is stated that in G.O.Ms.No.168, (Labour and Employment) (Q1) Department, dated 19.10.2000 for providing employment assistance to the dependents of the employees on medical invalidation, the age of the employees has been extended from 50 years to 53 years. In the instant case, the father of the petitioner had voluntarily retired at the age of 57 and therefore, the petitioner is not entitled to employment assistance. Therefore, the writ petition is not sustainable and the same has to be dismissed.

7.Heard both sides.

8.Considering the arguments advanced by the learned counsel on either side and also considering the Board Proceedings No.25, dated 09.10.2001, this Court is of the opinion that the request of the petitioner for appointment on compassionate ground is not sustainable and the rejection order dated 08.10.2010 passed by the second respondent need not be interfered with.

9.In the result, the writ petition is dismissed. The order passed by the second respondent by Letter No.நி.அ /நி.பி.2 / உ.3/கோ.வா.வே ப.எண்.191/10 , dated 08.10.2010 is confirmed. No costs.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Chairman(Personnel),
Tamil Nadu Electricity Board,
N.P.K.R.R. Maaligai,
800, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
Madurai Electricity Distn. - Circle,
Tamil Nadu Electricity Board,



+1 cc to Mr.S.Dhayalan , Advocate in SR.No. 74424

+1 cc to Mr.A.Haja Mohideen , Advocate in SR.No. 73658

cla

AE/KP/SAR3/17.04.2017/4P/5C

W.P (MD) No.637 of 2011
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