

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.14908 of 2012

K.Ganesan

.. Petitioner

Vs.

1. The Chief Engineer Personnel,  
Tamil Nadu Electricity Generation and  
Distribution Corporation  
(previously known as Tamil Nadu  
Electricity Board),  
No.144, Anna Salai, Chennai - 2.
2. The Superintending Engineer,  
Namakkal Electricity Distribution  
Circle, Tamil Nadu Electricity  
Generation and Distribution  
Corporation  
(previously known as Tamil Nadu  
Electricity Board), Namakkal.
3. The Superintending Engineer,  
Mettur Electricity Distribution Circle,  
Tamil Nadu Electricity Generation and  
Distribution Corporation  
(previously known as Tamil Nadu  
Electricity Board), Mettur Dam.

..Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the second respondent's letter made in Letter No.01/Ni.Pi.2/Ko.Va.Vae/2008 dated 20.09.2008 and the consequential order passed by the third respondent's letter made in Letter No.265-1/Ni.Pi.1/Ni.Vu.2(2)/Ko.Va.Vae/2012 dated 26.03.2012 and quash the same as illegal and without jurisdiction and consequently direct the respondents to appoint the petitioner on compassionate ground to any eligible post in the Tamil Nadu Electricity Generation and Distribution Corporation.

For Petitioner .. Mr.G.Ananda Kumar  
For Respondents.. Mr.P.R.Dhilip Kumar

ORDER

The petitioner has approached this Court seeking the following relief:

to call for the records relating to the second respondent's letter made in Letter No.01/Ni.Pi.2/Ko.Va.Vae/2008 dated 20.09.2008 and the consequential order passed by the third respondent's letter made in Letter No.265-1/Ni.Pi.1/Ni.Vu.2(2)/Ko.Va.Vae/2012 dated 26.03.2012 and quash the same as illegal and without jurisdiction and consequently direct the respondents to appoint the petitioner on compassionate ground to any eligible post in the Tamil Nadu Electricity Generation and Distribution Corporation.

2.The petitioner's mother, who was working as Helper in the Electricity Board, died on 06.10.2015 while in service. According to the petitioner, he was the dependent on the income earned by his mother as he was living with his mother being the last son. The petitioner's father predeceased his mother. After the death of his mother, the petitioner had applied for compassionate appointment on 16.11.2007. The said application was rejected by the Board on 20.09.2008 on the ground that the petitioner had studied upto 7<sup>th</sup> standard and the minimum qualification for appointment in the Board was 8<sup>th</sup> standard.

3.Thereafter, it appears that the petitioner had qualified himself and submitted a certificate for having passed 8<sup>th</sup> standard. After qualifying 8<sup>th</sup> standard, the petitioner submitted another application for compassionate appointment on 21.07.2011. In response to the application, the impugned order was passed on 26.03.2012, rejecting the application seeking compassionate appointment on the ground that the petitioner did not qualify himself within three year period prescribed for seeking compassionate appointment from the date of death of the deceased employee.

4.Learned counsel appearing for the petitioner would strenuously contend that the Board has issued several proceedings accepting the application for compassionate appointment after the children of the deceased employee attained the age of majority even though they were minors at the time of death of the deceased employee. He particularly would draw the attention of this Court to the Board's proceedings dated

09.10.2015, in and by which, the Board has directed for consideration of the candidates seeking compassionate appointment after they attained the age of majority regardless of the three year period. The same would also hold good in respect of acquiring educational qualification.

5. Upon notice, Mr. P. R. Dhilip Kumar, learned counsel entered appearance on behalf of the Board and he would submit that the issue is directly covered by the decision of the Division Bench of this Court in *The Inspector General of Prisons Vs. P. Marimuthu* (2016 (5) CTC 125). He would say that the petitioner was already over aged at the time of his initial application seeking compassionate appointment, which was submitted on 16.11.2007. Even otherwise, as per the decision of the Division Bench, the Board has no obligation to keep a post vacant for the petitioner to become qualified for appointment to the basic service. In the said circumstances, the writ petition lacks merits and the same ought to be rejected.

6. Upon consideration of the rival submissions of the learned counsels for the parties, this Court, although conscious of the decision of the Division Bench of this Court, yet is of the view that an opportunity needs to be given to the petitioner for consideration of his claim on the basis of his present qualification. In the said circumstances, in order to provide one more opportunity to the petitioner to put forth his claim for compassionate appointment, the Board is directed to consider the petitioner's claim and pass fresh orders on merits and in accordance with law. The Board is also directed to take into consideration the indigent circumstances or otherwise of the family of the petitioner while taking a decision. The said exercise shall be completed and the decision shall be informed to the petitioner within a period of two months from the date of receipt of a copy of this order.

7. The writ petition stands disposed of on the above terms. No costs.

s/d-

Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr. P.R. Dhilipkumar, Advocate sr 50919

+1 CC to Mr.G. Anandakumar, advocate sr 57259.

W.P.No.14908 of 2012

SP(07/08/2017)

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