

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	29/11/2017
PRONOUNCED ON	14/12/2017

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THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1138 of 2016

A.Kalavani ... Appellant/Petitioner

Vs.

- 1.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board (Now TANGEDCO),
Anna Salai, Chennai.
- 2.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
TANGEDCO, Villupuram.
- 3.The Superintending Engineer,
Kallakurichi Electricity Distribution Circle,
TANGEDCO, Kallakurichi,
Villupuram District. .. Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to
set-aside the order dated 11.08.2015 made in W.P.No.18602 of
2015, on the file of this Court.

Prayer in WP 18602/2015

Writ Petition has been filed praying for issuance of a
writ of declaration, declaring the orders of rejection passed by
the 2nd and 3rd respondents Board dated 28.7.2003 and 19.8.2015
respectively are illegal and consequently direct the respondents
to give the benefits given in the orders passed by this
Honourable court in W.A.(MD) No.682/10 dated 2.7.2013 other
orders and consequently provide job assistance on compassionate
grounds.

For Appellants : Mr.B.Manoharan

For Respondents : Mr.Fakkir Mohideen
Standing Counsel

J U D G M E N T

P.VELMURUGAN, J.

The writ appeal is arising out of the judgment dated 11.08.2015 made in W.P.No.18602 of 2015.

2. It would be appropriate to notice that the aforementioned Writ Petition has been preferred by the appellant for issuance of a Writ of declaration, declaring the orders of rejection passed by respondents 2 and 3, dated 28.07.2003 and 19.08.2015 respectively, are illegal and consequently direct the respondents to give the benefits given in the order passed by this Hon'ble Court in W.A.(MD).No.682 of 2010, dated 02.07.2013, and consequently provide job assistance on compassionate grounds.

3. Facts culled out in brief for the disposal of the writ appeal are as follows:-

3.1. The father of the appellant was in the service of the then Tamil Nadu Electricity Board, which is now TANGEDCO, and he died in harness on 30.07.2000, leaving behind the appellant, her mother and her elder sister, namely, Kalaiselvi. The mother of the appellant had approached the respondent Board, seeking employment, on compassionate grounds in respect of her elder daughter, Kalaiselvi, who is the elder sister of the appellant, vide application, dated 18.07.2003. It was rejected by the second respondent on 28.07.2003, on the ground that she had not completed the age of 18 years.

3.2. The appellant attained the age of majority in the year 2014. The mother of the appellant submitted an application, dated 13.08.2014, seeking compassionate appointment to him, and it was also rejected, for the reason that the application was not submitted within a period of three years. Challenging the legality of the said order, appellant has filed the Writ Petition.

4. After considering the facts and circumstances of the case, the learned Single Judge dismissed the Writ Petition.

5. Aggrieved against the order of the learned Single Judge, the appellant has filed the present Writ Appeal.

6. The learned counsel for the appellant would submit that the learned Single Judge ought to have seen that the scheme for providing job assistance to the deceased employee family is beneficial scheme and if the respondents failed to act on the application within a short time, it will not debar the appellant

to claim the same. Even long period after the death of the breadwinner, the family will survive with the least income, but the same is not a ground for rejection. The scheme is provided only to save the family from indigent condition after the death of the breadwinner. He would further submit that the learned Single Judge failed to consider the judgment of this Court made in W.A.(MD)No.578 of 2013 in which even after 19 years from the date of death of the employee, direction was given to provide job assistance. The learned Single Judge failed to consider the judgment of this Court made in W.A(MD)No.29 of 2006 in which the brother of the appellant therein filed application for compassionate appointment and the same was rejected. Subsequently this Court issued a direction to provide job assistance. Hence, the learned counsel prays for allowing this appeal.

7. The learned Standing Counsel appearing for the respondents would submit that the application submitted for seeking compassionate appointment in respect of appellant's elder sister / Kalaiselvi was rejected on 28.07.2003. It was open to the appellant at the relevant point of time to resubmit the application, after he attained majority, which was not done, but instead, on 13.08.2014, the appellant, viz., Kalaivani filed another petition, seeking compassionate appointment. The delay of 11 years has not been properly explained. Hence, the learned Single Judge after considering all the facts, dismissed the Writ Petition and therefore, the learned counsel prays for dismissal of the Writ Appeal.

8. It is an admitted fact that the father of the appellant was in the service of the then Tamil Nadu Electricity Board, which is now TANGEDCO, and he died in harness on 30.07.2000, leaving behind the appellant, her mother and her elder sister, namely, Kalaiselvi. The mother of the appellant had approached the respondent Board, seeking employment, on compassionate ground in respect of her elder daughter, Kalaiselvi, who is the elder sister of the appellant, vide an application, dated 18.07.2003, and it was rejected by the second respondent on 28.07.2003, on the ground that she had not completed the age of 18 years. It was open to Kalaiselvi to resubmit her application, immediately after completion of 18 years, but that was not at all done. However, after waiting nearly 11 years, the wife of the deceased had approached the respondent Board, seeking employment, on compassionate grounds in respect of her second daughter, the appellant herein, on 13.08.2014 and the same was rejected on 19.08.2014 on the ground that the application was not submitted within a period of three years.

9. The judgments cited by the learned counsel for the appellant would disclose that immediate steps have been taken by

the petitioner therein to challenge the orders of rejection, and, in those facts and circumstances, orders came to be passed, directing the Board to consider the claim, seeking for compassionate appointment. But, in this case, initially, the appellant's mother has filed application for her elder daughter, which was dismissed on the ground that she had not completed the age of 18 years. After a long lapse of 11 years, the wife of the deceased has submitted application, seeking compassionate appointment for the second daughter of the deceased employee, the appellant herein and not for her elder daughter / Kalaiselvi. Hence, there is a long delay in filing the application. Neither the deceased mother nor the appellant made a request to consider the name of the appellant. It is well settled principle that the legal heir of the deceased cannot seek appointment on compassionate grounds as a matter of right. Compassionate appointments are not a source of recruitment and they are made to provide security to the family of an employee, who died in harness.

10. The learned Single Judge after considering all the facts rightly dismissed the Writ Petition. There are no grounds to interfere with the order passed by the learned Single Judge.

11. Accordingly, the Writ Appeal fails and the same is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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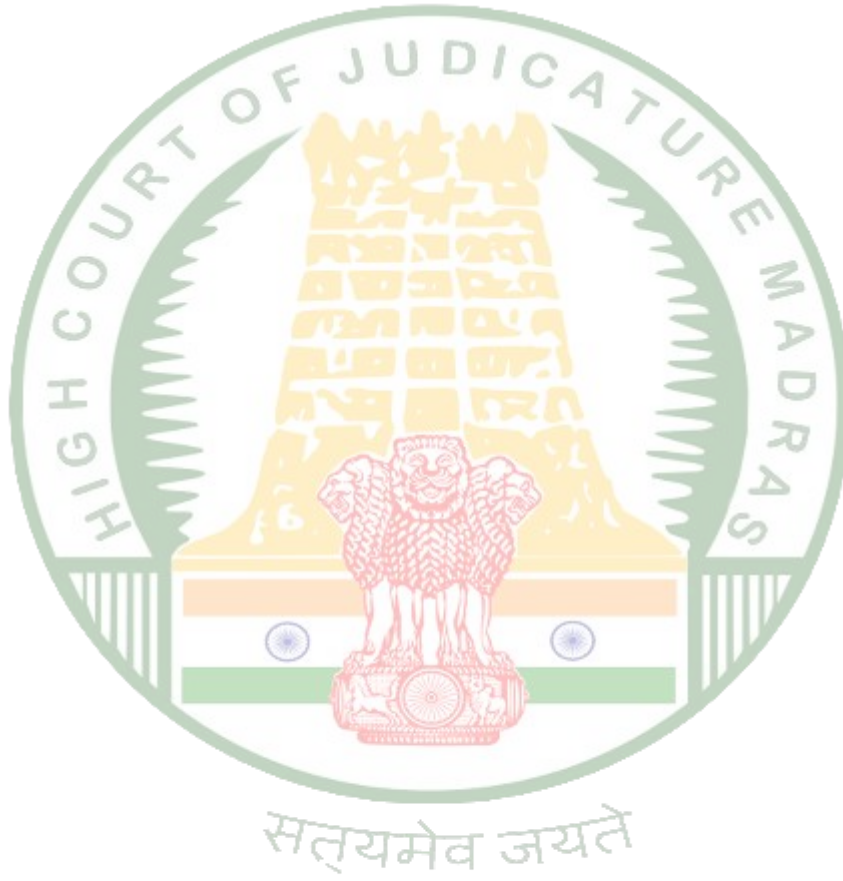
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+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.89805

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DK (CO)

RRK (05/01/2018)



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