

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.869 of 2016
and
C.M.P.Nos.11242/2016, 1159 & 1160 of 2017

The Superintending Engineer,
Coimbatore EDC (North),
Coimbatore - 12.

... Appellant/Writ
Petitioner

.. Vs ..

1. A.Pappathi
2. The Presiding Officer,
Labour Court,
Coimbatore.

.... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of The Letters Patent Act, against the order dated 03.03.2016 passed by this Court in W.P.No.18399 of 2011, filed under Article 226 of the constitution of India praying to issue a writ of certiorari to call for the records in I.D.NO.5.01.2007 dated 5.12.2007 on the file the 2nd respondent herein and quash the same.

For Appellant : Mr.Abdul Saleem
For R-1 : Mr.R.M.D.Nazarullah
for Mr.K.V.Shanmuganathan

JUDGMENT

(Judgment of the Court was delivered
by HULUVADI G.RAMESH, J.)

Writ Appeal is directed against the order dated 03.03.2016 passed by the learned Single Judge, dismissing the writ petition filed by the appellant in W.P.No.18399 of 2011, which was filed to quash the proceedings of the second respondent in I.D.No.5 of 2001, dated 05.12.2007.

2. Heard the learned counsel for the parties for some time.

3. It appears that, the first respondent herein was appointed as Helper on compassionate ground due to the death of her husband Late A.Murugasan, Inspector of Assessment while in service in the appellant - Electricity Board. At the time of applying for appointment on compassionate ground, the first

respondent has produced VIII standard Transfer Certificate issued by Kannampalayam Government High School. Subsequently, the first respondent was promoted as Record Clerk. It appears that since the Transfer Certificate produced by the first respondent was not genuine, she was placed under suspension and ultimately, she was dismissed from service. As against the said dismissal order, the first respondent herein has preferred an appeal before the Chief Engineer, Distribution, Coimbatore, and after the dismissal of the said appeal, the first respondent has raised Industrial dispute before the second respondent - Labour Court, Coimbatore. The second respondent - Labour Court, by an award dated 05.12.2007, directed the appellant - Electricity Board to reinstate the first respondent in service with continuity of service and without backwages and with all other benefits. The matter was taken up before the learned Single Judge and the learned Single Judge having noted the nature of the post viz., Helper, dismissed the writ petition filed by the appellant - Electricity Board and confirmed the award passed by the second respondent - Labour Court. The said order is under challenge in this writ appeal.

4. Having regard to the nature of the job and also the proposition in respect of dying in harness, it is sufficient, for compassionate appointment, to have a minimum qualification. The learned Single Judge, of course, observed that the matter has to be treated as a special case as no specific qualification is required for the post of Helper. In the circumstances, without ordering for backwages, the learned Judge confirmed the order of reinstatement with continuity of service only for the purpose of service benefits. We are in full agreement with the view of the learned Single Judge and we are not inclined to interfere with the same.

5. However, as rightly observed by the learned Single Judge, this will be treated as a special case as it is an appointment on compassionate ground which cannot be cited as precedent in any other case. The appellant - Electricity Board is directed to reinstate the first respondent within three months from today with continuity of service, but without backwages on the principle of no work-no pay.

6. With the above direction, the Writ Appeal is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Jr1

To

1.The Presiding Officer,
Labour Court,
Coimbatore.

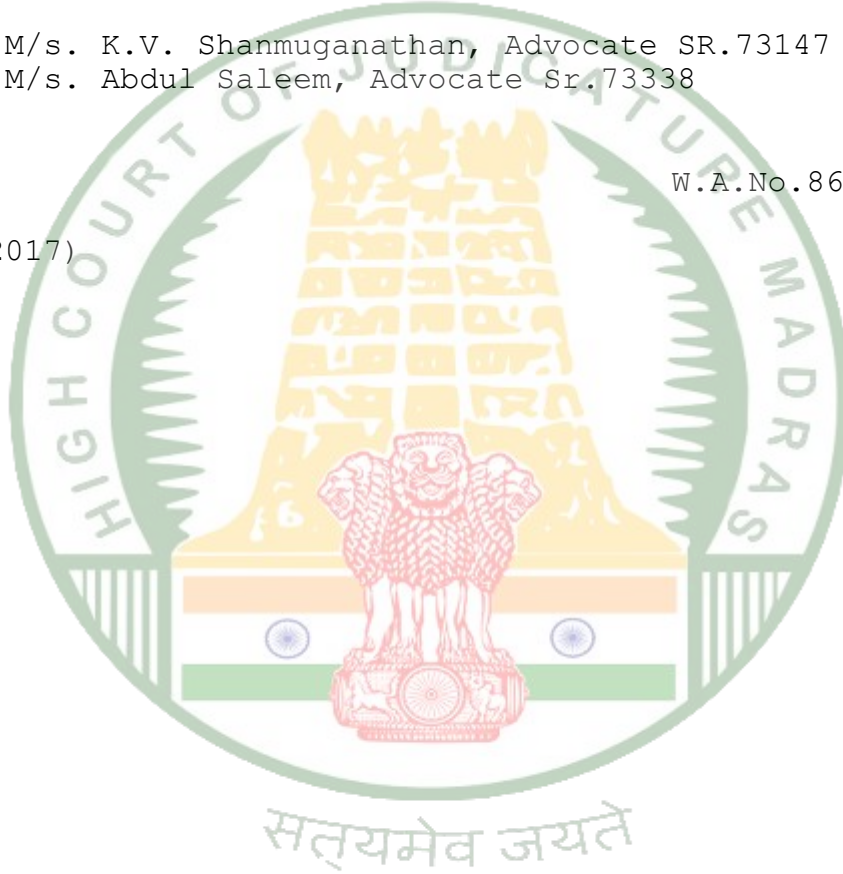
2. The Superintending Engineer,
Coimbatore EDC (North),
Coimbatore-12.

+ 1 cc to M/s. K.V. Shanmuganathan, Advocate SR.73147

+ 1 cc to M/s. Abdul Saleem, Advocate Sr.73338

W.A.No.869 of 2016

PPA (CO)
EU (26/10/2017)



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