

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 27.03.2017****Coram****The Hon'ble Mr.Justice S.M.Subramaniam****Writ Petition No.12060 of 2003****and****W.P.M.P.Nos.15113 and 15114 and 2003**

R.Vidhya

...Petitioner

Vs.

1. The Tamil Nadu, Electricity Board,
rep. by its Secretary,
No.800, Anna Salai,
Chennai -2.
2. The Superintending Engineer,
Erode Distribution Circle,
No.948, E.V.N. Salai,
Erode-9.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for the records of the impugned order of the first respondent, passed in Permanent B.P.Ms.(FB) No.46 (Administration Branch) dated 13.10.1995, and proceedings of law No.31315/A29/A292/2002-1, dated 05.04.2002, and proceedings K.No.70142/1382/No.P.2/ E.Ne.Vu./Co.Va.Ve/2002-03, dated 05.02.2003,

and to quash the same, and consequently, to direct the respondents to appoint the petitioner in any one of the vacancies for the application given by the petitioner with all mandatory and attending benefits.

For Petitioner : Mr.Ma.P.Thangavel

For Respondents : Mr.P.R.Dilipkumar
Standing Counsel

ORDER

Heard Mr.Ma.P.Thangavel, the learned counsel appearing for the petitioner and Mr.P.R.Dilipkumar, the learned Standing Counsel for the respondents.

2. The matter relates to appointment on compassionate ground in the services of the respondent Board.

3. The petitioner is the daughter of K.Rangasamy, who was an employee of the respondent-Board, and he died in harness on 10.10.1995, leaving behind the petitioner, her mother and grandmother as legal heirs. At that time, the petitioner was stated to be a minor. Due to the sudden demise of the sole breadwinner, the family was in indigent circumstances. The

petitioner, on attaining the age of majority, submitted an application seeking appointment on compassionate grounds, since the same was rejected by the respondent/Board, by the impugned order, the petitioner has filed this Writ Petition.

4. The learned counsel appearing for the petitioner would submit that, it is no doubt true that, the petitioner, before attaining the age of majority, submitted application for appointment on compassionate grounds, in the year, 1999, and the same was rejected by the respondent, by stating that, since the petitioner was minor, she was not fit for any compassionate appointment. Thereafter, on attaining majority, she renewed the application by representation, dated 18.06.2001, and made a similar request for grant of compassionate appointment, but the same was also rejected by the respondent-Board, on the ground that the application was not filed within three years from the date of death of the employee. The learned counsel contended that, period of three years should be reckoned, from the date on which, the petitioner attained majority, and therefore, there is no delay on the part of the petitioner in submitting the application. Hence, the learned counsel prays that, impugned orders passed by the respondent-Board are

liable to be set side and consequently, a direction may be issued, directing the respondent-Board to grant appointment to the petitioner.

5. On the afore said submission, heard the learned Standing Counsel for the respondent, and perused the materials on record.

6. Now, the issue that falls for consideration in this Writ Petition is as to whether the benefit of compassionate ground can be extended to the petitioner, after a lapse of 22 years from the date death of the employee.

7. The scheme of compassionate ground was introduced by the Government only to provide employment to the families, who will be suffering due to the sudden demise of the breadwinner. In other words, to mitigate the gruesome circumstances of the family, the Scheme has been introduced. The scheme of compassionate ground can never be construed as opportunity of employment, and all employments in public sector undertakings have to be made in accordance with recruitment rules or under the constitutional schemes and back door entries can never be made.

8. Further, the Hon'ble Supreme Court, in the case of **(State of J & K and others Vs. Sajad Ahmed Mir)** reported in **(2006) 4 MLJ 605**, held that, "once it is proved that, inspite of the death of the breadwinner, the family has survived for over a period of fifteen years, there is no necessity to order appointment on compassionate ground". Such being the legal position, this Court has to consider the efflux of time occurred due to various grounds. Now 22 years have been lapsed from the date of the death of the petitioner's father, and the family is able to survive for the past 22 years without any further complaint. Such being the factual position, this Court is not inclined to grant to relief sought for by the petitioner in this Writ Petition, that too, at this length of time and also, in view of the fact that scheme of compassionate ground cannot be utilized as regular source of employment.

9. For the reasons, stated hereinabove, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition are closed.

sd
Index : yes/no

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S.M.Subramaniam,J.

sd



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