



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMARW.P. (MD) .No.1477 of 2011 &
M.P. (MD) .No.1 of 2011

P.Kumar

.. Petitioner

Vs.

1.The Chief Engineer,
Personnel,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai-2.2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Generation Circle,
Tirunelveli District.3.The Executive Engineer,
Power House,
Tamil Nadu Electricity Board,
Tirunelveli District.

.. Respondents

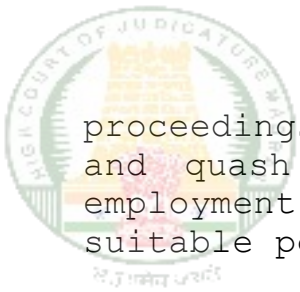
Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings க.எண்.ஆர்.004651/113/நபி/உ3 கோ.வா.வே/10 dated 08.04.2010 and the consequential impugned order passed by the 2nd respondent in his proceedings க.எண்.ஆர்.013743/424/நபி/உ-3 கோ.வா.வே/10 dated 21.10.2010 and quash the same as illegal and consequentially to direct the respondents to provide employment to the petitioner on compassionate ground in any suitable post .

For Petitioner :Mr.P.Muthuraja

For Respondents :Mr.G.Kasinatha Durai

ORDER

The prayer in the writ petition is for a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the second respondent in his proceeding க.எண்.ஆர்.004651/113/நபி/உ3 கோ.வா.வே/10 dated 08.04.2010 and the consequential impugned order passed by the 2nd respondent in his



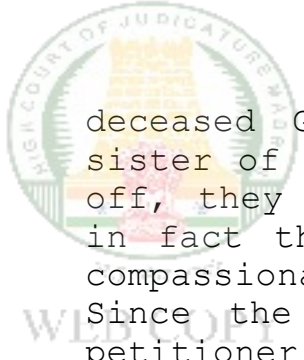
proceedings க.எண்.அ.013743/424/நபி/உ -3 கோ.வா.வே/10 dated 21.10.2010 and quash the same and to direct the respondents to provide employment to the petitioner on compassionate ground in any other suitable posts.

2. The petitioner's father while he was working in the respondent board as Mechanic died in harness due to sudden heart ailment on 18.09.2007 leaving behind the petitioner's mother, two elder brothers and one sister as well as the petitioner as his legal heirs. The two elder brothers and one sister already settled separately. Since the petitioner herein, who was not having any job to get revenue to run his family consisting of his wife and mother, he had approached the respondent by submitting application on 22.08.2008 seeking compassionate appointment. Even though initially the said application of the petitioner was considered, a full fledged enquiry to verify the circumstances of the family of the petitioner was conducted and ultimately, based on that enquiry, the respondents came to the conclusion that the petitioner is not in indigent circumstances, because the petitioner's wife is already working as Government servant and therefore on that ground, the petitioner's request for compassionate appointment had been rejected by the impugned order dated 08.04.2010 and consequentially further order dated 21.10.2010 has also been passed stating the very same reason by rejecting the application of the petitioner. Challenging both the orders passed by the respondents dated 08.04.2010 and 21.10.2010, the petitioner has come out with the present writ petition.

3. Heard both sides.

4. The learned counsel appearing for the petitioner would submit that the only reason cited by the respondents for rejecting the application of the petitioner for compassionate appointment is that the petitioner's wife is working in the police department and since she is working, the family of the petitioner cannot be treated as living in indigent circumstances. Therefore, the compassionate appointment sought for by the petitioner was rejected.

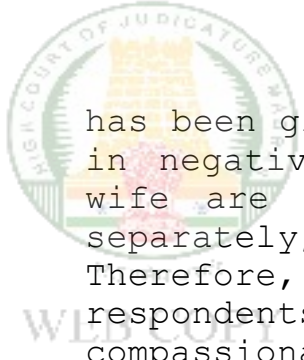
5. In this regard, the learned counsel for the petitioner would draw the attention of this Court to a copy of the statement said to have been given by the petitioner's wife on 03.05.2010 at the time of full fledged enquiry conducted by the respondent department. According to the said statement of the wife of the petitioner, she has stated that though marriage was performed between the petitioner and herself on 03.07.2007, within a very short period of 6 months, difference of opinion arose between them. In the result, the petitioner's wife separated and she had been living all along with her parental house. The learned counsel for the petitioner would also submit that out of a local people conciliation, the petitioner and his wife separated and all along the petitioner is living with his mother, who is the widow of the



deceased Government servant. Since the two elder brothers and sister of the petitioner are settled separately and they are well off, they have not made any claim for compassionate appointment, in fact they had given no objection to the petitioner to claim compassionate appointment for the sudden death of his father. Since the wife of the petitioner, had already separated, the petitioner along with the widow of the deceased Government Servant, who is the mother of the petitioner, is living in a precarious condition and therefore, the petitioner is entitled to seek suitable job to his educational qualification from the respondents on compassionate ground. Therefore, the learned counsel for the petitioner submitted that rejection order outrightly made by the respondent through the impugned order stating the reason that the wife of the petitioner working in the police department is totally unsustainable and therefore, on that ground rejection ought not have been made. Hence, the learned counsel for the petitioner seeks interference of this Court in the impugned orders.

6. Per contra, the learned standing counsel appearing for the respondents would contend that the law is well settled in this regard that compassionate appointment should not be given against the Rules and norms prescribed for services governing the employees and those compassionate appointments should be given only to bring the family from the precarious circumstances and indigent nature caused due to the sudden demise of the Government servant. Here, in this case on hand, though the petitioner's father died due to harness, he left 3 sons and 1 daughter and a widow as his legal heir out of all these legal heirs none other than the petitioner had claimed any compassionate appointment from the respondents. Only the petitioner had claimed the compassionate appointment on the ground that he along with his mother living in an indigent circumstances. In order to consider the said application made by the petitioner full fledged enquiry was conducted by the respondent department, wherein shockingly it was revealed that the petitioner's wife T. Shanthi is already working in the police department of the State of Tamil Nadu and getting handsome monthly salary. When the very wife of the petitioner is a Government Servant, the family of the petitioner headed by him cannot be treated as a family in indigent circumstances and therefore, the petitioner would not be entitled to claim the post of compassionate appointment because of the death of his father. Therefore, it has been rightly rejected by the respondents and hence it requires no interference from this Court.

7. This Court has considered the rival submissions made by the learned counsel on both sides. The facts are undisputed except to state that the petitioner's wife namely T. Shanthi claimed to have separated from the petitioner and is living separately. When a specific question was posed to the learned counsel appearing for the petitioner by this Court, whether any legally acceptable divorce



has been given between the petitioner and his wife, the answer was in negative. Therefore, in the eye law, the petitioner and his wife are husband and wife and though they are claimed living separately, in the eye of law, they can be treated as one family. Therefore, the reasons adduced in the impugned order by the respondents for rejecting the claim of the petitioner for compassionate appointment in the opinion of this Court, is perfectly valid and sustainable. Therefore it requires no interference from this Court.

8. In the result, the Writ Petition fails. Accordingly, it is liable to be dismissed and therefore the same is dismissed. However, it is open to the petitioner to establish before the respondents, if he is advised to do so, that he is still in indigent circumstances because of the separation taken between his wife and himself and if such a claim is made by the petitioner, it is for the respondents to decide the same, on merits and in accordance with law, and in this regard, none of the findings given by this Court in this order would not stand in the way. With this observations, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Chief Engineer, Personnel,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-2.
 - 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Generation Circle, Tirunelveli District.
 - 3.The Executive Engineer, Power House,
Tamil Nadu Electricity Board, Tirunelveli District.
- +One cc to Mr.G.Kasinathadurai, Advocate, SR.No.6584
+One cc to Mr.P.Muthuraja, Advocate, SR.No.6586
jikir
RL/6C/4P/PM/10.3.2017

W.P. (MD) .No.1477 of 2011

06.02.2017