

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

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

W.A.No.1768 of 2017

The Superintending Engineer,
Kanchipuram EDC,
TANGEDCO, Kanchipuram. Appellant/Respondent

-vs-

E.Revathy Respondent/Petitioner

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.25795 of 2010 dated 24.11.2010.

Prayer in WP.No.25795 of 2010: Writ petition filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorarified mandamus, Calling for the records pertaining to the order of the respondent herein passed in proceedings lr.No.010068/30/Ni.Pi.2/E.Ni.U/Ko.Va.Ve.Va/2010 dt.26.8.2010 quash the same and consequently direct the respondent to appoint the petitioner in any one of the posts on compassionate ground.

For Appellant :: Mrs.R.Varalakshmi,
Standing Counsel

For Respondent :: Mr.C.S.Krishnamurthy for
Mr.K.Premkumar

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The husband of the respondent herein by name M.Krishnamurthy while working as Field Worker in the office of the Junior Engineer, Kanchipuram Electricity Distribution Circle, Tamil Nadu Electricity Board, Uthiramerur, died in harness on 16.06.2002 leaving behind his wife (respondent), his daughter, two sons and his mother. Within three years from the date of death of the respondent's husband, i.e., on 13.09.2004, the respondent made a representation to the appellant and prayed for compassionate appointment. The respondent was at that time studied upto 6th standard. On coming to know that to secure the job, respondent should have passed 8th standard, subsequently she studied 8th standard privately and passed successfully. After obtaining the mark sheet, she made a further representation to

the appellant on 19.07.2010, but by an order dated 26.08.2010 the appellant rejected the claim of the respondent on the ground that she should have possessed 8th Standard qualification within three years from the date of death of the deceased employee. Hence a writ petition was filed before this Court in W.P.No.25795 of 2010 seeking to quash the said order of the appellant dated 26.08.2010 and this Court allowed the said writ petition by order dated 24.11.2010. Challenging the said order, the Department has come up with the present appeal.

2.The learned counsel for the appellant has submitted that the concept of compassionate appointment was introduced only to enable the affected family to tide over a sudden catastrophe. But in the present case, nearly 8 years have elapsed after the death of the husband of the respondent, and hence the question of imminent necessity would not arise. She further submitted that at the time of submission of application for compassionate appointment, the respondent was not having the requisite qualification, ie., 8th Standard. Stating so, she prayed for quashing the order passed by the learned single Judge in the writ petition, ordering to grant compassionate appointment to the respondent.

3.The learned counsel for the respondent has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference.

4.Heard the learned counsel on either side and perused the materials available on record.

5.It is seen that the learned single Judge has allowed the claim of the respondent relying upon the decision made by this Court under similar circumstances, in W.A.No.3050 of 2003 which decision has been affirmed by the Hon'ble Supreme Court in Civil Appeal No.2039 of 2006 dated 30.03.2010. In the case on hand, it is seen that the respondent possessed only 6th Standard as on the date of submission of application for compassionate appointment. Subsequently, she appeared for the examination and passed 8th Standard. Within three years of the death of the respondent's husband, the respondent made the application for compassionate appointment, but only thereafter, she appeared for the examination and passed 8th Standard. It is seen that the respondent is having a son who is mentally unsound. Even though the application for compassionate appointment was made on time, the same was rejected on the ground that the minimum qualification of 8th Standard was not acquired by the respondent at that point of time. But subsequently she passed 8th Standard. This aspect was not considered properly by the Department. Further, no documentary evidence is available on record to show that the family of the respondent is not in indigent circumstances. Time and again, Courts have relaxed the conditions, considering the facts and circumstances of such

deserving cases.

6.Taking into consideration the facts and circumstances of the present case, the appellant is directed to consider the aspect with regard to the qualification acquired by the respondent in proper perspective and re-examine the case of the respondent for compassionate appointment, sympathetically, and pass a reasoned order, within a period of three months from the date of receipt of a copy of this judgment.

7.With the above observations and direction, the writ appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM
To
The Superintending Engineer,
Kanchipuram EDC,
TANGEDCO, Kanchipuram.

+1cc to M/s.R.Veeralakshmi, Advocate Sr.No.5271
+1cc to M/s.K.Premkumar, Advocate Sr.No.457

RSK(CO)
sm:6.2.2018

W.A.No.1768 of 2017

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