

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1942 of 2018

R.Ranjith Kumar

... Appellant

Vs

1. The Chairman-cum-Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai-2.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai-2.
3. The Secretary,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai-2.
4. The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited,
Salem Main Road, Krishnagiri.
5. The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited, Dharmapuri-5.

... Respondents

Prayer :

Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 26.07.2017 made in W.P.No.19142 of 2017
by a learned Single Judge.

W.P.No.19142 of 2017:-

Petition praying to issue a Writ of Certiorarified Mandamus to call for the records relating the impugned orders passed by the 5th respondent in Ka.No. 007217/130/NiPi.2 / Vu.3/Ko.va.ve/2011 dated 30.04.2011 & Ka.No.313/ 418/NiPi.2/ Vu.3/Ko.Va.Ve./ 2012 dated 11.01.2012 and the consequential impugned orders passed by the 4th respondent in Letter No. 630/ Ni.Pi 1 Vu 1/Ko. Varisuvelai/ 2014 dated 20.10.14 & Ka.No. 003056/ 517/ Ni Pi.1/Vu.1 /Ko. Varisuvelai (Podhu)/ 2015 dated 03.09.2015 and quash the same as illegal arbitrary and without jurisdiction and consequently direct the 1st respondent to select and appoint the petitioner on compassionate grounds to any eligible post in the respondents corporation by duly forming selection committee headed by the 3rd respondent as far as the appointment of dependants of employees who die in harness due to accident and as a result of their normal duties concerned as per the Board's proceedings MS.No.1474 dated 03.10.1978.

For Appellant :: Mr.G.Anandha Kumar
for M/s.Thamizharasi Law Firm

For Respondents :: Mr.M.Fakkir Mohideen
1 to 5

JUDGMENT

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

The Writ Appeal is directed against the order dated 26.07.2017 made in W.P.No.19142 of 2017 by a learned Single Judge.

2. Challenging the order of rejection, rejecting the claim of the writ petitioner/appellant herein for compassionate appointment, the present Writ Petition has been filed. By an order dated 26.07.2017, the learned Single Judge has dismissed the said Writ Petition. Aggrieved over the same, the appellant is before this Court with this Writ Appeal.

3. Heard the learned Counsel appearing for the appellant as well as the learned Counsel for the respondents 1 to 5. We have also perused the materials available on record carefully including the order of the learned Single Judge.

4. At the outset, the fact that the father of the appellant Ramakrishnan, while he was working under the 5th respondent as Wireman, died on 23.1.1989 due to electrical accident is not in dispute. While so, after 28 years from the death of his father, the appellant approached the 5th respondent seeking compassionate appointment. Since the same was rejected

by orders dated 30.4.2011 and 11.01.2012, the W.P.No.19142/2017 came to be filed. Considering the facts that the death was occurred on 23.1.1989 and the family of the deceased is able to survive for about 28 years in the absence of the deceased Government employee and the son of the deceased employee approached the concerned authorities after a long delay, the learned Single Judge has held that the claim for compassionate appointment was rightly rejected by the 5th respondent on the ground that the application seeking compassionate appointment was not filed within a period of three years from the death of the deceased employee and accordingly dismissed the Writ Petition. Aggrieved over the same, the appellant is before this Court with this Writ Appeal.

5. In this regard, a perusal of the typed set of papers reveals that the appellant's father expired on 23.01.1989. At that time, it appears that he was a minor, aged about four years. Therefore, he ought to have submitted his application seeking compassionate appointment within three years on his attaining majority. But, he failed to do so and belatedly approached the 5th respondent seeking compassionate appointment. In this regard, it is contended by the learned Counsel for the appellant that earlier on 05.09.1997, the appellant made application claiming compassionate appointment, but the same has been rejected on the ground that he has not completed 18 years of age, thereafter he made representations on 6.5.1998 and 10.5.1999 to the 5th respondent and the same have also not been considered. Therefore finally, the appellant made a representation on 26.4.2011 and the same was rejected by the 5th respondent by order dated 30.4.2011. Hence, according to the learned Counsel for the appellant, since the delay caused to approach the respondents is beyond the control of the applicant, his right to have compassionate appointment cannot be defeated.

6. Per contra, the learned Counsel for the respondents relying on a decision of the Supreme Court in Sanjay Kumar vs. State of Bihar and others reported in (2000) 7 Supreme Court Cases 192 contended that the appellant is not entitled to seek compassionate appointment after a lapse of 28 years.

7. We have perused the aforesaid decision of the Apex Court. In paragraph 3 of the said decision, it has been held by the Apex Court that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood. Under such circumstances, we are of the view that though several reasons have been stated by the appellant for the delay caused on his side, the case of the appellant cannot be considered for compassionate appointment after a delay of 28 years. Therefore,

we concur with the order of the learned Single Judge.

8. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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Tamil Nadu Generation and Distribution
Corporation Limited, Dharmapuri-5.

+1cc to M/s.Thamizharasi Law Firm, Advocate, S.R.No.65213

+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.65283

W.A.No.1942/2018

SSI(CO)
CS/26/10/2018