

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.15194 of 2012

Pappa @ Pappammal

... Petitioner

Vs

The Chairman,
The Tamil Nadu Electricity Board,
800, Annasalai,
Chennai-2.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in order dated 02.08.1999 made in Letter No.017496/NiBi.2/V04/Kou.Velai Vayppu/99 and quash the same and consequently direct the respondents to provide employment to the petitioner's 2nd daughter namely one Miss.Maria, on compassionate grounds in a suitable post in the Respondent and to pass such further or other as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.R.Jayakumar for
M/s.T.Pennwaller Association

For Respondents: Mr.P.R.Dilipkumar

O R D E R

The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in order dated 02.08.1999 made in Letter No.017496/NiBi.2/V04/Kou.Velai Vayppu/99 and quash the same and consequently direct the respondents to provide employment to the petitioner's 2nd daughter namely one Miss.Maria, on compassionate grounds in a suitable post in the Respondent and to pass such further or other as this Court may deem fit and proper in the circumstances of the case."

2. The petitioner was employed as Helper in the respondent Board. He was originally appointed on 25.08.1995 as Helper under the scheme called the Employment Assistance to a member in the family who was affected by acquisition of land for dredging operation in North Madras Thermal Power Project. While in service, the petitioner's husband expired due to heart-attack on 02.09.1996, leaving behind the petitioner and three daughters.

3. Since the petitioner's husband was the only breadwinner of the family, the petitioner submitted an application on 21.07.1999, seeking compassionate appointment. However, the same was rejected on 02.08.1999 on the ground that the petitioner did not have minimum qualification of 8th Standard pass. Thereafter, several representations were submitted by the petitioner seeking compassionate appointment on the ground that no minimum qualification is required for certain category of jobs, however, those representations were not considered by the Board. In the mean while, the petitioner's second daughter has attained the age of majority in 2012 and she has studied upto 12th Standard. Therefore, the petitioner renewed her request seeking compassionate appointment for her second daughter and in that regard, she submitted a representation to the Board on 02.05.2012. However, the said representation had not been disposed of by the authorities concerned till the date of filing of the writ petition. Therefore, the petitioner is before this Court for issuance of Writ of Mandamus.

4. Upon notice, Mr.P.R.Dilipkumar, the learned Standing Counsel entered appearance on behalf of the respondent and objected to grant of any relief to the petitioner, in view of the fact that the petitioner's husband died 20 years back, i.e., in 1996 and the scheme for compassionate appointment could be invoked only extending employment assistance to the family members and not after a period of 20 years.

5. Per contra, the learned counsel for the petitioner would submit that the family of the deceased worker has been in indigent circumstances all along and immediately after attaining the age of majority of the second daughter of the petitioner, the application was made seeking compassionate appointment and the authorities concerned did not pass any orders on the same.

6. This Court has considered the submissions made by the learned counsel appearing for the petitioner as well as the respondent. Although it is not in dispute that the petitioner's husband died in 1996 and the application originally which was submitted by the petitioner came to be rejected in 1999, yet the fact of the matter is that there is no consideration by the

Board seeking Compassionate Appointment by the petitioner on merits. Earlier, the representation submitted by the petitioner was rejected on the ground that the petitioner did not possess minimum qualification. Though this was disputed by the learned counsel for the petitioner, however, this Court without going into such issue in view of subsequent development, namely the petitioner has come forward seeking employment assistance only for her second daughter who has attained the age of majority subsequently. According to her, she is qualified to be appointed to any suitable post. More over, it has to be seen that it is not a normal case of seeking compassionate appointment on the death of employee of the Board, since this is a case where the petitioner's family has lost their land which was acquired by the Board for dredging operation and therefore, the livelihood was affected not only by the loss of land but also the loss of the only breadwinner of the family. Therefore, in the interest of equity, the Board has to consider the claim of the petitioner on merits where the family is still in indigent circumstances requiring employment assistance.

7. In the above said circumstances, the writ petition is allowed and there shall be a direction to the respondent to consider the claim of compassionate appointment for the second daughter of the petitioner as claimed by her representation dated 02.05.2012 and consider the same on merits and pass orders within a period of eight weeks from the date of receipt of a copy of this order.

8. It is also open to the petitioner to submit a fresh application within a period of one week from the date of receipt of a copy of this order to the authorities concerned. This Court hopes that the authorities concerned shall take into account the indigent circumstances in which the family is placed with sympathetic approach and pass appropriate orders. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar(CS IX)

//True Copy//

WEB COPY

Sub Assistant Registrar

kal

To

The Chairman,
The Tamil Nadu Electricity Board,
800, Annasalai,
Chennai-2.

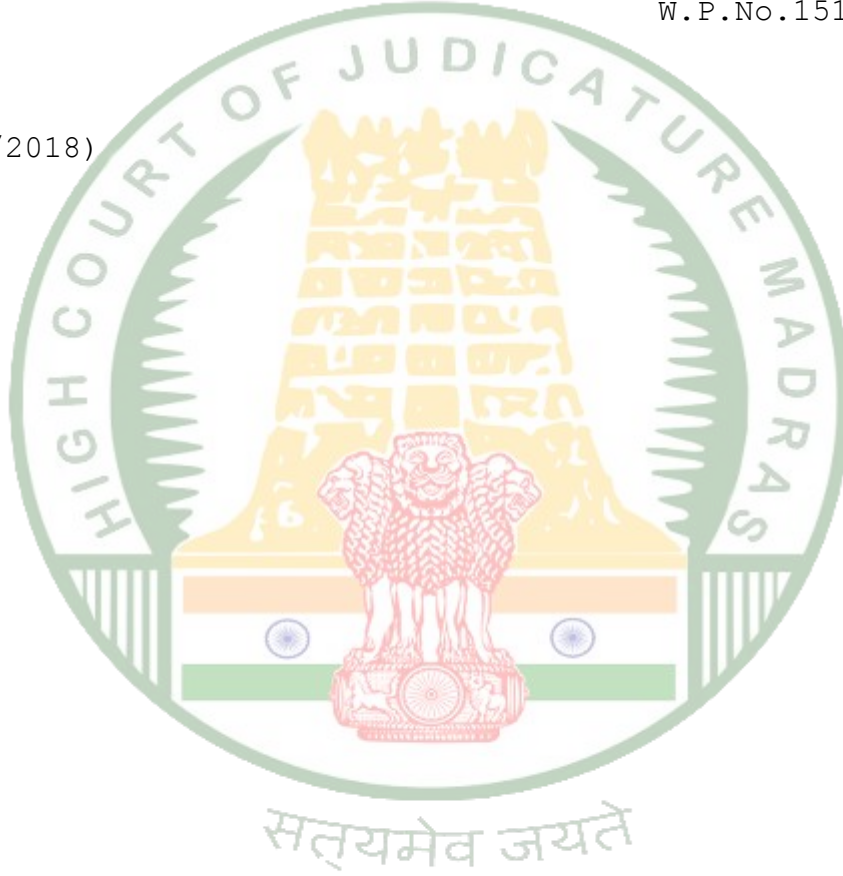
+1cc to M/s.T.Fennwalter Associates, Advocate, S.R.No.17451

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.17666

W.P.No.15194 of 2012

GJ(CO)

RRK(10/04/2018)



WEB COPY