

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2018

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.14231 of 2003

S.Selvaraju

... Petitioner

vs.

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002 .
2. The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002 .
3. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Tamil Nadu Electricity Board,
Tatabad,
Coimbatore - 641 012.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Ku.A.No.918/Ni.Pi2(4)/Ko.Va.Ve/2000 dated 21.10.2000 on the file of the third respondent, quash the same and direct the respondents to appoint the petitioner in the suitable post on compassionate ground.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.P.R.Dhilip Kumar

O R D E R

The prayer sought for herein is a writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Ku.A.No.918/Ni.Pi2(4)/Ko.Va.Ve/2000 dated 21.10.2000 on the file of the third respondent, quash the same and direct the respondents to appoint the petitioner in the suitable post on compassionate ground.

2. The petitioner's father was working as a Wireman in the respondents' Department and he died on 30.10.1999 leaving behind his wife and three children including the petitioner, who is the elder son. The petitioner at that time had not completed 10th standard which means he completed only 9th standard. With that qualification, the petitioner had made a request at the earliest point of time i.e., on 17.02.2000 to appoint him in any suitable post on compassionate ground.

3. Subsequently, it seems that, the petitioner was directed to produce the income certificate to establish the indigent circumstances of the petitioner's family for getting appointment on compassionate ground. Subsequently, the petitioner obtained income certificate from the Tahsildar, on 27.03.2000 and the said certificate had also been produced before the third respondent for consideration. Further the third respondent by impugned order dated 21.10.2000 had rejected the said application made by the petitioner seeking for compassionate appointment by passing a cryptic order that the petitioner's family is not under the indigent circumstances as per the Board proceedings for obtaining compassionate appointment and therefore his request had been rejected. Challenging the order of rejection dated 21.10.2000, the petitioner filed this writ petition in the year 2002.

4. I have heard Mr.S.Doraisamy, learned counsel appearing for the petitioner, who would submit that, the petitioner is the elder son of the deceased and at the time of death of his father i.e., on 30th October, 1999, he has not even completed 10th standard and therefore, there could be no chance of any own brother and sister of the petitioner could have engaged in employment nor any such employment opportunity to the wife of the deceased i.e., the mother of the petitioner and therefore being the only available and eligible person to seek the compassionate appointment, the petitioner filed an application to the respondent Department.

5. The learned counsel appearing for the petitioner would further submit that, except the family pension which is received by the mother of the petitioner from the Department, there is no other income available to the family of the petitioner. Since the only bread winner of the family suddenly died, the family become in penurious circumstances and therefore, without verifying the financial merits, by wrong understanding of the matter, which might have influenced the mind of the authority, as if the petitioner's family was not under the indigent circumstances, as such the petitioner was not entitled for compassionate appointment, the request of the petitioner was rejected.

6. I have heard Mr.P.R.Dhilip Kumar, learned Counsel appearing for the respondent who would submit that, the compassionate appointment was denied to the petitioner through the impugned order passed by the respondent/Department. According to the learned counsel for the respondent, since the petitioner's family was running power looms units, out of which they have regular earning, there is no indigent circumstances for the family and therefore, only based on the available materials and on merits, the representation made by the petitioner was rejected through the impugned order. Hence it requires no interference from this court.

7. I have considered the submissions made by Mr.S.Doraisamy, learned Counsel appearing for the petitioner as well as Mr.P.R.Dhilipkumar, learned counsel appearing for the respondents.

8. I have gone through the impugned order which reads as follows :-

சுதிரு.அ.செல்வராஜ், த.பெ.(கா.செ.) சிக்ரமணியன், முன்னாள்
கம்பியாளர், அவர்களது வேலை வாய்ப்பு, விண்ணப்பம் பரிசீலிக்கப்பட்டு
அவருடைய குடும்பம் வறுமை நிலையில் இல்லாத காரணத்தால் வாரிய
ஆணைப்படி அவரது விண்ணப்பம் நிராகரிக்கப்படுகிறது என்பதை
தெரியப்படுத்தப்படுகிறது.

Since it is a very cryptic order having only four lines and it merely states that because the family of the petitioner was not in any indigent circumstances, as per the Board regulation, his request was rejected. Apart from these sentences, nothing has been stated in the impugned order and no discussions or materials have been referred as to how and on what basis, the respondent organisation had come to the conclusion that the family of the petitioner was not in the indigent circumstances.

9. When the rejection order was made by the respondents that too, rejecting the request of the petitioner seeking compassionate appointment, if the respondents came to the conclusion that the petitioner was not under the indigent circumstances, certainly respondents must have indicated on what basis they came to the said conclusion. The order passed by the authority without any plausible and acceptable reason cannot be considered as a valid proceeding in the eye of law and on perusal of the impugned order, this Court finds that the impugned order is bereft of reasoning that too without any acceptable reason with supporting material. Hence, it has no legs to stand.

10. The learned counsel appearing for the respondents would further submit that, at any rate, since the impugned order was passed long back and after the lapse of 16 years, certainly the petitioner's family would have improved their financial status

and therefore, we cannot assume that the petitioner's family is under indigent circumstances and the same position still continues even today.

11. For the said argument, the learned counsel appearing for the petitioner by way of reply stated that, all these years the petitioner's family have some coolie works and out of which they earned meagre amount from such employment, and they have been surviving without decent amount and the petitioner's family has become poorer and they do not lead their life in decent manner.

12. On considering the said submission made by both sides and on perusal of the impugned order, this court is of the view that, the impugned order, for the simple reason of non-disclosure of acceptable reason, is liable to be interfered with and the matter can be remanded back to the respondents for re-consideration by taking into account the ground reality and situation as to whether the petitioner's family is still placed under the same circumstances.

13. In the result, the impugned order is quashed and the matter is remanded back to the respondents for re-consideration. While making such re-consideration, it is open to the respondents to receive or obtain whatever inputs from the petitioner's side as well as from other sources including the Revenue Authorities in order to ascertain the financial background of the petitioner and the petitioner's family circumstances, to come to the conclusion as to whether the family of the petitioner is still under indigent circumstances and still requires compassionate appointment from the respondent Department. If such decision is taken and once the respondents department decided based on the materials to be supplied by the petitioner and also from the other sources that the petitioner's family is still in indigent circumstances, needful shall be done by the respondents, by considering the request of the petitioner for compassionate appointment. It is made clear that as the writ petition is pending before this Court for a long period, the upper age limit, if any, prescribed by the respondent department for getting employment, the same can be relaxed insofar as the petitioner is concerned and the exercise as directed above shall be done by the respondents within a period of eight weeks from the date of the receipt of a copy of this order.

14. With these directions this writ petition is disposed of. No costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
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 2. The Chief Engineer/Personnel,
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 3. The Superintending Engineer,
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Tamil Nadu Electricity Board,
Tatabad, Coimbatore - 641 012.
- +1 CC to Mr.S. Doraisamy, Advocate sr 55128.

W.P.No.14231 of 2003

SR(CO)
SP(25/09/2018)



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