

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15-03-2019
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 1015 of 2018

R.Thirupathi

... Petitioner

Vs

1. The Chairman cum Managing Director
Tamilnadu Electricity Generation & Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai-600 002.
2. The Chief Engineer/Personal
Tamilnadu Electricity Generation & Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer,
Thirupathur Electricity Distribution Circle,
Tamilnadu Electricity Generation & Distribution Corporation
Ltd.,
Thirupathur-635 601. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the 3rd respondent's letter made in Ka.No.239/Ni.Pi.2/Ni.Vu.3/Ko.Va.Vey/2015-3 dated 05.10.2016 and quash the same as illegal and violation of Board's rules and consequently direct the 2nd respondent to appoint the petitioner on compassionate ground to any eligible post in the Tamilnadu Electricity Generation & Distribution Corporation Ltd.,

For Petitioner

: Mr.G.Ananda Kumar
for M/s.Thamizharasi Law Firm

For Respondent

: Mr.M.Fakkir Mohideen
Senior Counsel for TNEB

O R D E R

The order of rejection dated 05.10.2016 in respect of the claim of the writ petitioner for appointment on compassionate grounds is under challenge in the present writ petition.

2. The father of the writ petitioner late Raja was employed as Field Assistant and died on 02.10.2013, while he was in service.

3. The learned counsel for the writ petitioner states that the application seeking for compassionate appointment was filed within the time limit as prescribed under the scheme. However, the said application submitted by the writ petitioner was rejected in the impugned proceedings dated 05.10.2016, on the ground that the mother of the writ petitioner was already employed in the respondent Board itself. On a perusal of the impugned order, it is stated that the mother of the writ petitioner Tmty.R.Mallika was already employed as a sanitary worker in the regular time scale of pay and therefore, the writ petition cannot be considered.

4. The learned counsel for the writ petitioner states that the mother of the writ petitioner was employed on temporary basis and she is not a regular employee. As per the Board proceedings, when the dependant of the family is employed, the factors to be ascertained are, whether he is regularly employed and is actually supporting the family. In the present case on hand, the wife of the deceased employee, though employed on temporary basis, is receiving the regular time scale of pay, as per the Board proceedings dated 02.08.2011. Even, the order of appointment dated 30.09.2011 states that the mother of the writ petitioner was appointed as Part Time Conservancy Worker in the regular time scale of pay (Rs.600-10-700-20-1100). Thus, she was appointed in the regular time scale of pay. This being the factum of the case, the claim of the writ petitioner cannot be entertained, as the wife of the deceased employee has already been employed in the respondent/Electricity Board.

5. The very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arising out of and on account of the sudden demise of the deceased employee.

6. In the present case on hand, the wife of the deceased employee is already in service. Irrespective of the fact that whether she is a permanent employee or a temporary employee, she is able to manage the family. That alone must be the criteria. If the family is able to manage with the source of income of the legal heir who is employed in the very same Organisation, considering the case of other legal heir would not arise at all.

7. The penurious circumstances is to be interpreted if there is no person employed in the family of the deceased employee and there is no source of income for the family. Two criteria are very important. No other legal heir is employed with the organisation in question and the family has no other source of income. Even in case, where no body in the family is employed and the family is not having any source of income from other means, then the legal heir can seek for a compassionate appointment for the family.

8. The purpose is to ensure that the family is not having any other source of income and only in those circumstances, the scheme of compassionate appointment has to be extended to the legal heir of the deceased employee and not otherwise.

9. This being the factum of the case, this Court is of the view that there is no infirmity as such, in respect of the impugned order passed by the respondent and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar(CSviii)

//True Copy//

Sub Assistant Registrar

ssb

To

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Tamilnadu Electricity Generation & Distribution
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Thirupathur-635 601.

+1cc to M/s.Thamizharasi Law Firm , Advocate SR.No. 24897

+1cc to Mr.M.Fakkir Mohideen , Advocate SR.No. 25498

W.P.No. 1015 of 2018

A.SK(01/05/2019)



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