

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 15.03.2019

CORAM  
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
And  
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.810 of 2019

H.Ramadas

... Appellant

Vs.

- 1.The Chairman,  
Tamil Nadu Electricity Board,  
Head Office,  
Anna Salai, Chennai - 600 002.
- 2.The Chief Engineer,  
Tamil Nadu Electricity Board,  
Head Office,  
Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,  
Tamil Nadu Electricity Board,  
O/o The Superintending Engineer,  
TEDC / Thiruvannamalai - 606 604.
- 4.The Executive Engineer,  
Tamil Nadu Electricity Board,  
Polur & Post,  
Thiruvannamalai District.
- 5.The Assistant Engineer,  
Mansurabath,  
Polur Taluk,  
Tiruvannamalai District.

... Respondents

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 12.12.2018 made in W.P.No.15518 of 2017.

Prayer in WP.No.15518 of 2017:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 3<sup>rd</sup> Respondent or any of the Respondents to grant appointment to petitioner since he has qualified himself by passing 8<sup>th</sup> Std as per the EB Rules and Consider his name for appointment on

compassionate ground to any post of attender or peon in any of the office of the Respondents in the Electricity Board.

For Appellant : Mr.R.G.Annamalai

For Respondents : Mr.P.R.Dhilipkumar

#### J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

The writ petition filed by the appellant in W.P.No.15518 of 2017 was dismissed by the learned Single Judge primarily on the ground that the earlier writ petition filed by him challenging the order of rejection of request for compassionate appointment was dismissed by the learned Single Judge in W.P.No.8109 of 2016 and the said order has become final. Feeling aggrieved by the order dated 12.12.2018 the un-successful writ petitioner has come up with this intra court appeal.

2.We have heard the learned counsel for the appellant. We have also heard the learned Standing Counsel appearing on behalf of the respondents.

3.By consent, the intra court appeal is taken up for disposal during the time of admission.

4.The father of the petitioner Thiru.A.Harikrishnan was an employee of the Tamil Nadu Electricity Board. Thiru.A.Harikrishnan died on 23.12.2010. The appellant made an application for compassionate appointment. The said application was rejected by the Superintending Engineer, Tamil Nadu Electricity Board on the ground that his brother has already been employed in the Indian Army. The other reason which made the Electricity Board to reject the application appears to be the age. According to the Electricity Board, the candidate should have passed VIII Standard. Since he has failed in VIII Standard, the application was rejected.

5.The learned Single Judge found that the appellant suppressed the material information with regard to the employment of his brother in the Indian Army while making application for compassionate appointment. The learned Single Judge also found that the appellant has failed in VIII Standard and as such, he was not eligible for compassionate appointment. The order has become final.

6.It so appears that subsequent to the disposal of the writ petition in W.P.No.8109 of 2016 on 04.03.2016, the appellant appeared for the VIII Standard examination by way of private study and passed the said examination in April, 2016. Thereafter, he filed a fresh writ petition in W.P.No.15518 of

2017 for issuance of Writ of Mandamus directing the respondents to consider his case for compassionate appointment. The learned Single Judge dismissed the writ petition on account of the earlier order dated 04.03.2016 in W.P.No.8109 of 2016.

7. There is no dispute that as on the date on which the application of the appellant for compassionate appointment was considered by the Superintending Engineer, he was not having the qualification of a pass in VIII Standard. It is also a matter of record that after the dismissal of the writ petition in W.P.No.8109 of 2016, the appellant has passed the VIII Standard. The appellant has now satisfied the eligibility criteria.

8. The other ground taken by the Superintending Engineer to reject the application for compassionate appointment appears to be the suppression of the material information with regard to the employment of his brother in the Indian Army.

9. The appellant in the affidavit filed in support of the writ petition and in the grounds of appeal took up a specific contention that his brother is living separately and he has absolutely no connection with the family. This aspect was not considered by the Superintending Engineer while rejecting the application for compassionate appointment. Even the learned Single Judge in W.P.No.8109 of 2016 has not considered this issue presumably because the appellant has not raised it expressly. In any case we are of the view that interest of justice would be sub-served by directing the TANGEDCO to consider the application of the appellant for compassionate appointment afresh on merits and as per law.

10. We permit the appellant to submit a fresh application for compassionate appointment along with a copy of the certificate relating to his pass in VIII Standard. The application shall be submitted on or before 15<sup>th</sup> April, 2019. He should also demonstrate before the TANGEDCO that his elder brother who is employed in Indian Army has absolutely no connection with the family. The application shall be considered and disposed of by the Superintending Engineer, TANGEDCO or the appropriate Authority as expeditiously as possible, and in any case, on or before 31<sup>st</sup> July, 2019.

11. The order passed by the writ court is set aside.

12. The intra court appeal is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,  
Tamil Nadu Electricity Board,  
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Anna Salai, Chennai - 600 002.

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5.The Assistant Engineer,  
Mansurabath,  
Polur Taluk,  
Thiruvannamalai District.

+1cc to Mr.R.G.Annamalai, Advocate, S.R.No.24412

+1cc to Mr.P.R.Dhilipkumar, Advocate, S.R.No.24797

+1cc to Mr.R.G.Annamalai, Advocate, S.R.No.24412(21/03/2019)

W.A.No.810 of 2019

PM(CO)

rrs 20/03/2019

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