

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16762 of 2019

S.Juliskumar

...Petitioner

vs.

- 1.Tamil Nadu Generation and Distribution Corporation,
Rep. by its Chairman cum Managing Director,
No.144, NPKRR Maaligai, Anna Salai,
Chennai - 02.
 - 2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
No.144, NPKRR Maaligai, Anna Salai,
Chennai - 02.
 - 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Salem Electricity Distribution Circle,
Salem - 14.
- ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records from 2nd and 3rd respondent in connection with the impugned order Lr.No.015798/103/JI.64/JI.642/2019 dated 14.05.2019 issued by the 2nd respondent and the consequential Lr.No.1168/நி.பி.இ/உத.2/கோ.,வா.,சுவ./2019 dated 17.01.2019 issued by the 3rd respondent and quash the same and direct the respondents to consider the claim of the petitioner for compassionate appointment within the stipulated time fixed by this Court.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents : Mr.P.R.Dilip Kumar

ORDER

The Writ Petition has been filed by the petitioner to quash the impugned order Lr.No.015798/103/JI.64/JI.642/2019 dated 14.05.2019 issued by the second respondent and the consequential order Lr.No.1168/நி.பி.இ/உத.2/கோ.,வா.,சுவ./2019 dated 17.01.2019 issued by the third respondent and direct the respondents to consider the claim of the petitioner for compassionate appointment within the stipulated time fixed by this Court.

2.The case of the petitioner is that the petitioner's father was working as a wireman in the Electricity Board and died on 17.05.2017 leaving behind the petitioner and his two daughters as legal heirs. Though the sisters got married and including the petitioner that they were depending only their father's income for their livelihood. Accordingly, the petitioner applied for job assistance under the compassionate ground on 02.07.2018 well within the prescribed period. However, the said application was rejected due to the reason over age. Challenging the same, the petitioner filed a Writ Petition before this Court.

3.The learned counsel appearing for the petitioner would submit that for the very same issue rejection on the ground that the over age, a Division Bench of this Court in W.A.No.3078 of 2019 dated 24.09.2019, was setting aside the similar order passed by the very same respondent-TANGEDCO and remanded the matter back to the respondent for fresh consideration. Hence, he prayed for similar orders.

4.The learned Standing Counsel appearing for the respondents did not dispute the fact made by the learned counsel appearing for the petitioner.

5.Considering the fact and circumstances, the petitioner applied for job assistance under the compassionate ground on 02.07.2018 well within the prescribed period. However, the said application was rejected due to the reason over age.

6.For better appreciation, the very same issue was considered by the Division Bench of this Court held as follows:

8.Accordingly, today, when the matter came up for further hearing the Service Regulations [corrected upto 30.06.2000] of the Tamilnadu Electricity Board, was produced and Regulation No.111 of the Service Regulations, reads thus.

"Notwithstanding anything contained in these regulations, the Board shall have the power to deal with the case of any person serving under the Board or any candidate for appointment to any class of service in such manner as may appear to it to be just and equitable;

Provided that, where any such Regulation is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that Regulation."

9.Perusal of the above Regulation makes it clear that the Board has power to relax the age. In the present case, the respondent-TANGEDCO has not exercised the said power.

10. In view of the above admission on the part of the respondents that the application for employment assistance on compassionate grounds was submitted in time and that reference has been made by the writ Court, to cases, not applicable to the facts and circumstances of the case, we deem it fit to set aside the order of the writ Court dated 11.10.2017 made in WP No.22101 of 2012, and remand the matter to the respondents-TANGEDCO, for fresh consideration. Appellant is also permitted to make a representation for relaxation of the age in exercise of the powers under Regulation No.111 of the Tamilnadu Electricity Board Service Regulations and such representation shall be made, accompanying the order made by this Court in the instant writ appeal. We also direct the respondents-TANGEDCO, to consider the appellant's case compassionately. No Costs.

7. In view of the above decision, I am inclined to set aside the order passed by the respondents 2 and 3 and remand the matter to the Authorities for fresh consideration and the petitioner is permitted to make a representation for relaxation of age in exercise of powers under Regulation No.111 of the Tamilnadu Electricity Board Service Regulations and such representation shall be made, accompanying the order made by this Court, the respondent-TANGEDCO is directed to consider the petitioner case and pass appropriate orders in accordance with law as per the existing schemes.

8. With the above observation and direction, the Writ Petition stands Allowed. No costs.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

pam

To

1. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation,
No.144, NPKRR Maaligai, Anna Salai,
Chennai - 02.

2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
No.144, NPKRR Maaligai, Anna Salai,
Chennai - 02.

3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Salem Electricity Distribution Circle,
Salem - 14.

+1cc to Mr.K.Krishnamoorthy, Advocate SR.No.87172

+1cc to Mr.P.R.Dilip Kumar, Advocate SR.No.87045

W.P.No.16762 of 2019

PVS (CO)
GMY (21/11/2019)



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