

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.03.2019
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.31504 of 2018
and
WMP.No.36722 of 2018

J.Hariharan

...Petitioner

Vs

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation/
TNEB, 144, Anna Salai,
Chennai - 600 002.
 2. The Chief Engineer (Establishment),
Administrative Branch,
Tamil Nadu Generation and Distribution Corporation/
TNEB, 144, Anna Salai,
Chennai - 600 002.
 3. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation/
TNEB,
Cuddalore Electricity Distribution Circle,
Kepparmalai,
Chennai - 4.
- ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his proceeding Ka.No.001232/SE/Cud/Admin-2/U4/Ko.Va.Vo/2018 dated 23.04.2018 and NA.KA.NO.008441/522/CUD/ADMIN-2/U4/KO.VA/18 dated 28.08.2018 quash the same and consequently direct the respondents to forthwith appoint the petitioner on compassionate grounds according to his qualification.

For Petitioner

:Mr.K.Raja

For Respondents

: Mr.M.Fakkir Mohideen
for TNEB

O R D E R

The order of rejection impugned dated 23.04.2018 states that, the writ petitioner was a minor at the time of submission of his application seeking appointment on compassionate grounds. On attaining the age of majority, the application was submitted by the writ petitioner was rejected on the ground that, the said application was filed after a lapse of three years.

2. Under these circumstances, the learned counsel for the writ petitioner states that, the period of limitation to be reckoned from the date of the submission of the original application and not from the date of the subsequent application submitted by the writ petitioner on attaining the age of majority.

3. The fact remains that, the father of the writ petitioner Late.Shri.G.Jayakumar was employed in the Office of the Assistant Electrical Engineer. He died on 26.10.2013, while he was in service. The mother of the writ petitioner got dissolution of marriage and therefore, she is not entitled to claim appointment on compassionate grounds. During the relevant point of time, when the father of the writ petitioner died, the writ petitioner was a minor and therefore, he was not in a position to submit application on compassionate grounds.

4. Thus, the delay cannot be held against the writ petitioner as the first application was submitted within the time limit and the limitation is to be taken from that date onwards. This Court is of an opinion that, any application seeking appointment on compassionate grounds must be dealt with the terms and conditions of the scheme. If any minor submits the application for the appointment on compassionate grounds, thus the said application itself is invalid in the eye of law. A minor is not entitled to secure public employment as per the service rules in force. Thus, application submitted by the minor is invalid application and cannot be entertained by the Competent Authority even for consideration.

5. The application invalid per se has no validity in the eye of law. This being the legal principles, the application submitted only on attaining the majority alone is to be considered as the valid application seeking appointments on compassionate grounds.

6. It is needless to state that, the Competent Authorities are empowered to deal with the applications submitted by the persons who are eligible to submit the application and all other ineligible applications are liable to be rejected summarily. Even in case of selection process, for instance, if a person submits an application beyond the age limit prescribed in the recruitment notification, such application are liable to be rejected in limini and summarily. This being the principles to be followed under the service jurisprudence, this Court is of an opinion that, the minors submitting application seeking public employment is to be rejected at the threshold as the same is invalid in the eye of law.

7. Admittedly, the father of the writ petitioner passed away on 26.10.2013 and as per the terms and conditions of the scheme of compassionate appointment, application must be submitted within the period of three years, from the date of the death of the deceased employee. The three years period lapses on 25.10.2016. The date of birth of the writ petitioner is 28.07.1999 and he attained the age of majority on 27.07.2017. Thus, the second application submitted by the writ petitioner was beyond the period of limitation prescribed in the terms and conditions of the scheme of appointment and accordingly, there is no infirmity as such in respect of the order impugned passed in this writ petition.

8. This Court cannot show any leniency or misplaced sympathy in the matter of providing public employment. All public employments are to be made only under the Constitutional scheme and by following the recruitment rules in force. Equality clause enunciated in the Constitution must be followed scrupulously by the Competent Authorities. The scheme which is special in nature, must be restricted to the extent possible so as to deprive the Constitutional rights of all other eligible citizen, who all are aspiring to secure public employment. In the event of enlarging the scope or expanding the terms and conditions of the scheme of appointment, the same infringes the rights of all other eligible citizen who all are eligible to participate in the open competitive process for getting employment.

9. This being the factum, this Court is of an opinion that, the order of rejection is in consonance with the terms and conditions of the scheme of appointment as well as in accordance with the Constitutional principles laid down by the Courts in the matter of providing appointment on compassionate grounds.

10. Accordingly, the writ petition is devoid of merits and stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)
//True Copy//

Sub Assistant Registrar

Pkn
To

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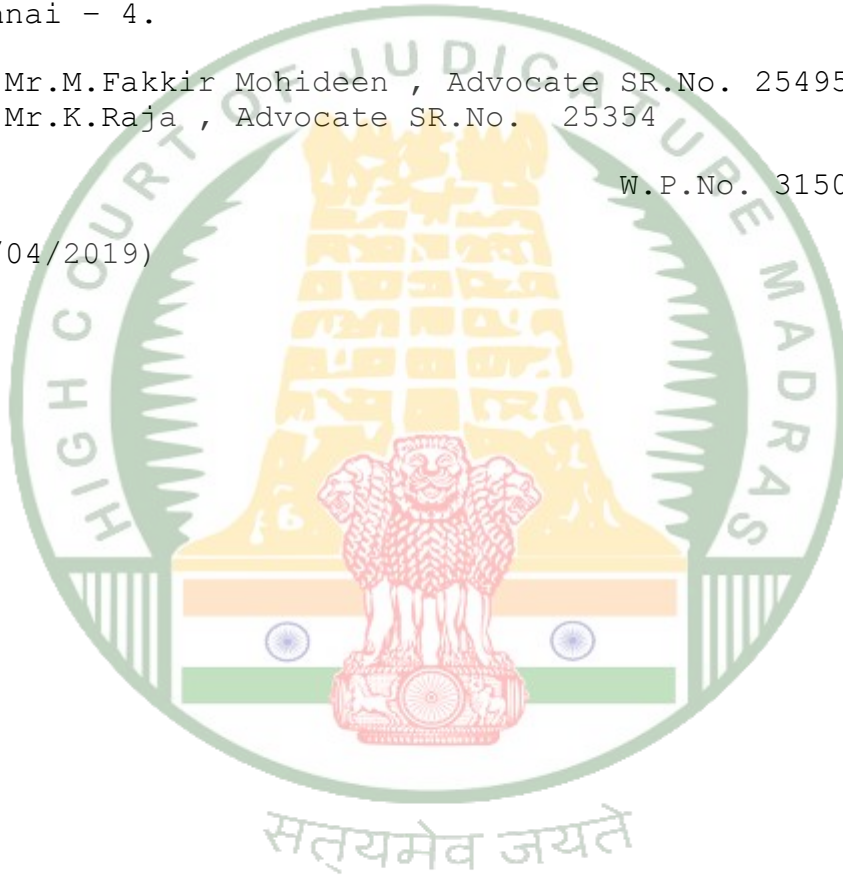
+1cc to Mr.M.Fakkir Mohideen , Advocate SR.No. 25495

+1cc to Mr.K.Raja , Advocate SR.No. 25354

W.P.No. 31504 of 2018

PP (CO)

A.SK(22/04/2019)



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