



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.2184 of 2016

WEB COPY

K.Illavarasi

... Petitioner

Vs.

1.The Chief Engineer (Employment),  
Tamil Nadu Electricity Generation and  
Generation Corporation,  
TANGEDCO,  
N.P.K.R.R.Maligai, 8<sup>th</sup> Street,  
800, Anna Salai,  
Chennai - 2.

2.The Superintending Engineer,  
Tamil Nadu Electricity Generation and  
Generation Corporation,  
TANGEDCO,  
Electricity Distribution Circle,  
K.Pudur, Madurai - 7.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to give compassionate appointment to the petitioner, on the basis of the petitioner's representation dated 19.09.2015.

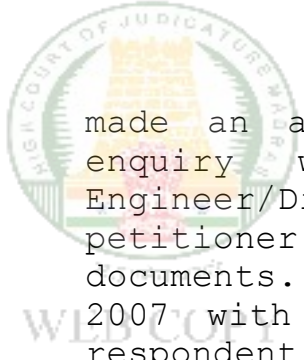
For Petitioner : Mr.V.Nagendran

For Respondents : Mr.S.Dhayalan (Standing Counsel)

**ORDER**

This Writ Petition has been filed seeking a direction to the respondents to give compassionate appointment to the petitioner on the basis of her representation dated 19.09.2015.

2.According to the petitioner, her father viz., T.S.Karuppaiah was working as Inspector of Assessment in Madurai Revenue Branch - West of Tamil Nadu Electricity Board under the respondents herein. While he was in service, he died on 29.03.1993 due to his sudden illness, leaving behind the petitioner's mother viz., Chandra, the petitioner and her sister viz., Sankaripappa, as his legal heirs. At the time of death of her father, the petitioner was aged about 9 years and her sister was aged about 7 years and therefore, the petitioner's mother made an application for appointment on compassionate ground and she has been directed to approach the Department after the petitioner attaining the age of majority. After the petitioner attaining the age of majority, i.e., in the year 2000, the petitioner's mother



made an application along with all required documents and an enquiry was also conducted by the Assistant Executive Engineer/Distribution, Melur and thereafter, in the year 2007, the petitioner's mother was requested to produce some relevant documents. The petitioner's mother has applied for the same in 2007 with all relevant documents, but, thereafter, the second respondent did not send any reply to her. Thereafter, the petitioner made an application on 19.08.2015 seeking employment on compassionate grounds. The second respondent sent a reply to the petitioner on 11.09.2015 requesting all relevant documents with relevant certificates. The petitioner has also sent the same to the second respondent on 19.09.2015, but, even after the receipt of the same, no action has been taken on the petitioner's request. Hence, the present Writ Petition.

3.A counter affidavit has been filed by the respondents stating that immediately after the death of the deceased employee, the wife of the deceased employee had given an application along with educational qualification certificates before the second respondent seeking employment assistance under compassionate ground. As per the prescribed norms in the Board, the certificates produced by the wife of the deceased employee were verified and it was found that the educational qualification certificate produced by the wife of the deceased employee was bogus one and she did not even complete her elementary education and therefore, her application was rightly rejected by the respondents. Further, the petitioner's father died on 29.03.1993, while he was in service. The petitioner applied for appointment on compassionate ground in the year 2000. As per the orders issued in (Per) B.P.(FB) No.46, Adm.Branch, dated 13.10.1995, the following conditions must be fulfilled for appointment on compassionate grounds in the Tamil Nadu Electricity Board.

''(a) The application for appointment on compassionate grounds should be made within three years from the date of death of employees of the Board.

(b) The maximum age limit, for such appointment be raised to 50 (Fifty) years in the case of widows of the deceased employees of the Board.

(c) In the case of already expired staff while in service, the dependants should apply for employment assistance within three years from the date of issue of this order.''

4.It is further stated that as per the orders issued under the scheme, the applicant should possess a minimum qualification of 8<sup>th</sup> Standard pass and should have completed 18 years of age at the time of death of the employee. At the time of death of the petitioner's father, the petitioner was 9 years old and she was a minor. Therefore, she was not eligible to get appointment on compassionate grounds. Further, the application sent by the petitioner in the year 2007 is a belated one and the same was sent



after a delay of 14 years.

5. In support of their contentions, the respondents have relied upon the following decisions of the Hon'ble Apex Court and prayed for dismissal of the Writ Petition.

(i) **State of Gujarat and others vs. Arvind Kumar T. Tiwari and another** reported in **2012 AIR SCW 5131 : 2012 (9) SCC 545**, wherein at Paragraphs 5 and 6, it has been held as follows:-

'5. We have considered the rival submissions made by learned counsel for the parties and perused the record. It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. A claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. Such a category of employment itself, is an exception to the constitutional provisions contained in Articles 14 and 16, which provide that there can be no discrimination in public employment. The object of compassionate employment is to enable the family of the deceased to overcome the sudden financial crisis it finds itself facing, and not to confer any status upon it. (Vide: Union of India & Ors. Vs. V. Shashank Goswami & Anr., AIR 2012 SC 2294).

6. The eligibility for the post may at times be misunderstood to mean qualification. In fact, eligibility connotes the minimum criteria for selection, that may be laid down by the executive authority/legislature by way of any statute or rules, while the term qualification, may connote any additional norms laid down by the authorities. However, before a candidate is considered for a post or even for admission to the Institution, he must fulfill the eligibility criteria. (Vide: Dr. Preeti Srivastava & Anr. v. State of M.P. & Ors., AIR 1999 SC 2894).'

(ii) **Sanjaykumar Vs. State of Bihar and others** reported in **2006 (6) Supreme Today 43**, wherein it has been held that there cannot be any reservation of vacancy till such time the claimant becomes major after number of years unless there is some specific provisions in the Service Regulations.

(iii) **MGB Gramin Bank Vs. Chakrawarti Singh** [C.A.No.6348 of 2013, dated 07.08.2013], wherein at Paragraph No.5, it has been held as follows:-

'5. Every appointment to public office must be made by strictly adhering to the mandatory requirements of Articles 14 and 16 of the Constitution. An exception by providing employment on compassionate grounds has been



carved out in order to remove the financial constraints on the bereaved family, which has lost its bread-earner. Mere death of a Government employee in harness does not entitle the family to claim compassionate employment. The Competent Authority has to examine the financial condition of the family of the deceased employee and it is only if it is satisfied that without providing employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family. More so, the person claiming such appointment must possess required eligibility for the post. The consistent view that has been taken by the Court is that compassionate employment cannot be claimed as a matter of right, as it is not a vested right.'

(iv) **Umesh Kumar Nagpal vs. State of Haryana and others** reported in **1994 (4) SCC 138**, wherein at Paragraph No.2, it has been held as follows:-

'2. .... The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the Financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment the family will not be able to meet the crisis that a job into be offered to the eligible member of the family.'

(v) **Bhawani Prasad Sankar vs. Union of India and others** reported in **2011 (3) LLN 37 (SC)**, wherein at Paragraph No.20, it has been held as follows:-

'20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:-

(i) Compassionate employment cannot be made in the absence of Rules or Regulations issued by the Government or a Public Authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make Compassionate Appointment dehors the Scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his



death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependents of the deceased/incapacitated employee viz., Parents, spouse, son or daughter and not to all relatives, and such appointment should be only to the lowest category that is Class III & IV posts.'

6. Heard both sides.

7. This Court has also considered the similar issue in **Y.Prince Vs. District Collector, Tiruppur District, Tiruppur and others** [W.P.No.19021 of 2017, dated 26.07.2017]. By considering the circumstances of the case at any angle, the petitioner's application has been rightly rejected by the authorities and the claim of the petitioner for compassionate appointment cannot be considered on the basis of the grounds raised in the present Writ Petition. Accordingly, the Writ Petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Chief Engineer (Employment),  
Tamil Nadu Electricity Generation and  
Generation Corporation,  
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2. The Superintending Engineer,  
Tamil Nadu Electricity Generation and  
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TANGEDCO,  
Electricity Distribution Circle,  
K.Pudur, Madurai - 7.

+1 CC to M/s.V.NAGENDRAN, Advocate ( SR-71739[F] dated 27/06/2019 )

+1 CC to M/s.S.DHAYALAN, Advocate ( SR-72116[F] dated 28/06/2019 )  
SMN2