



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) .No.16570 of 2014
and
MP (MD) .Nos.1 and 2 of 2014

K.Selvam ... Petitioner
-Vs-

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation (TNEB)
K.R.R.Maligai, 800, Annasalai,
Chennai-600 002.
- 2.The Chief Engineer,
Madurai Electricity Distribution Circle,
K.Pudur, Madurai-625 007.
- 3.The Superintending Engineer,
Madurai Electricity Distribution Circle,
K.Pudur, Madurai-625 007. ... 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 order No.Me.Po/Ma.Mi.Pa.Va./Madurai/Vu.Ni.A/Ni.Me/Ni.Pi.2/Vu3./A.No.220, dated 16.07.2014, passed by the 3rd respondent and quash the same and consequently to direct the respondents to appointment the petitioner under compassionate grounds in any suitable post based on his qualification within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
for M/s.Victory Associates

For Respondents : Mr.S.Dhayalan
Standing counsel



ORDER

The order of rejection dated 16.07.2014, rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2.The father of the writ petitioner Late Thiru.Karuppanan Asari was employed as a Wireman in Tamil Nadu Electric Board and died on 26.06.1989, while he was in service. The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was minor during the relevant point of time and therefore, he could not able to submit a application seeking compassionate appointment. However, the application seeking compassionate appointment was filed by the writ petitioner only during the year 1999, after a lapse of above 10 years from the date of death of the deceased employee. The said application was received by the respondent in proceeding dated 16.07.2014, after a lapse of above 15 years from the date of the application and challenging the said rejection order, the present writ petition is filed.

3.The fact remains that the deceased employee passed away in the year 1989. The application was submitted in the year 1999 and the rejection order was passed in the year 2014. Even at the time of filing the writ petition, the writ petitioner was aged about 32 years and now he would be around 37 years and crossed the age limit for the purpose of providing an appointment on compassionate ground. This apart, now after a lapse of above 30 years from the date of death of the deceased employee, the scheme of compassionate appointment cannot be provided to the writ petitioner.

4.In this regard, it is relevant to state the judgment of the Hon'ble Supreme Court of India, in the case of **State of Himachal Pradesh and another vs. Shashi Kumar** reported in (2019) 3 SCC 653, which reads as follows:-

"18.While considering the rival submissions, it is necessary to bear in mind that compassionate appointment is an exception to the general rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. Dependents of a deceased employee of the State are made eligible by virtue of the policy on compassionate appointment. The basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service. It is the immediacy of the



need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a dependent member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfil the terms of the policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment. But, where there is a policy, a dependent member of the family of a deceased employee is entitled to apply for compassionate appointment and to seek consideration of the application in accordance with the terms and conditions which are prescribed by the State."

5. In the case of the **Government of India Vs. P.Venkatesh (Civil Appeal No.2425 of 2019)**, the Hon'ble Supreme Court of India has held as follows:-

"The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened



adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee."

6.In view of the above legal principles already settled by the Hon'ble Supreme Court of India, the writ petitioner is not entitled for appointment on compassionate grounds, after lapse of so many years. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

TO

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Distribution Corporation (TNEB)
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KK/SAR/22.08.2019/4P-4C/

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