



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **31.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1099 of 2019

M.Ramalakshmi

... Appellant/Petitioner

Vs.

The Superintending Engineer,
TANGEDCO,
Tuticorin Electricity Distribution Circle,
Tuticorin.

...Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 21.08.2019 made in W.P. (MD)No.4791 of 2015.

Prayer in WP(MD). 4791/ 2015 :

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, calling for the records of the impugned order of the respondent in Ka.No.019131/108/Ne.Pi.2/U/2/Ko.Va.Velai/2014 dated 30.07.14 and quash the same and further direct the respondent to provide the petitioniner an employment on compassionate ground.

For Appellant : Mr.H.Arumugam

For Respondent : Mr.S.Dhayalan

JUDGMENT

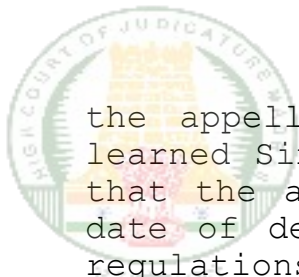
[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.H.Arumugam, learned counsel appearing for the appellant and Mr.S.Dhayalan, learned counsel appearing for the respondent.

2.By consent of both parties, this writ appeal is taken up for final disposal.

3.This appeal has been filed by the writ petitioner, challenging the order made in W.P.(MD)No.4791 of 2015, dated 21.08.2019.

4.The writ petition was filed, challenging the proceedings of the respondent, dated 30.07.2014, returning the application filed by



the appellant seeking appointment on compassionate grounds. The learned Single Bench, after taking note of the legal position, held that the application filed beyond the period of 3 years from the date of demise of the employee cannot be entertained, as per the regulations adopted by the respondent/Electricity Board. In the instant case, the appellant's father died on 25.12.2003 and the application for compassionate appointment was submitted in June 2014, after a period of 11 years from the date of demise of the employee. The writ petition was filed in the year 2014 and stand dismissed by the impugned order and by then, 16 years have lapsed. Therefore, at this juncture, we cannot issue any direction to the respondent/Electricity Board to grant appointment to the appellant on compassionate ground. The decision noted by the learned Single Bench would squarely apply and necessary cause has to be decided against the appellant. We thus find, no reasons to interfere with the order passed by the learned Writ Court.

5.The learned counsel appearing for the appellant pointed out that in Paragraph No.4 of the affidavit filed in support of the writ petition, a specific averment has been made stating that the appellant's father was a dwarf and his height was only 3 feet and as a result of which, he not only faced difficulty, while discharging his duties and responsibilities as an employee of the Board but also there was also a social stigma and he was also put to harassment and undue suffering. It is stated that the family of the deceased employee, namely, the appellant and her mother is still in indigent circumstances. It is further stated that the appellant is a very bright student having secured 1019 out of 1200 marks in her Higher Secondary Examination. Thereafter, she joined B.Sc. (Mathematics) Course and her selection was based on merit. However, she was unable to pursue the course on account of financial difficulty. Though the writ petition was pending since 2015, no counter affidavit has been filed by the respondent Board. Though we fully subscribe to the view taken by the learned Writ Court in dismissing the writ petition, what concerns is that if the appellant's father was a dwarf, which is now considered as a disability and persons affected with dwarfism are entitled for protection under the Provisions of the Equal Rights Persons with Disabilities Act, 2016.

6.In the recent recruitment done by the Tamil Nadu Public Service Commission for the post of Civil Judge, reservation was extended to dwarfs, pursuant to an amendment made to the Service Rules by the High Court. In the light of the said fact, while dismissing the writ petition, we grant liberty to the appellant to make a fresh representation to the respondent enclosing documentary proof to show that her father was a dwarf and his height was only 3 feet. This documentary proof should be by some record such as Service Register, Medical Examination Report conducted by the Electricity Board etc., If such representations is given, it is open to the respondent to consider the same and proceed in



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7. With this observation and liberty, the Writ Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

sjj/mrn

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-95510[F] dated 01/11/2019)

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MK (25.11.2019) 3P 2C