



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.9506 of 2015

K.Murugammal

... Petitioner

Vs.

1.The Chairman
Tamil Nadu Electricity Board,
800, Annasalai,
Chennai.

2.The Chief Engineer,
TNEB,
144, Anna Salai,
Chennai-600 002.

3.The Superintending Engineer,
Dindigul Distribution Circle,
Tamil Nadu Electricity Board,
Meenakshinaickenpatti,
Dindigul-2.

... Respondent

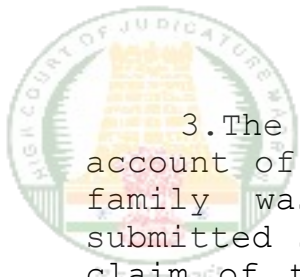
COMMON PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings in 7418/190/NiP2/U.1/Ko.va.vea/14 dated 29.03.2014 issued by the 3rd respondent and quash the same and consequently, direct the respondents to provided an employment on compassionate basis to the petitioner based on her Educational qualification.

For Petitioner	: Mr.S.M.Mohan Gandhi
For Respondents	: Mr.S.Dhayalan
	Government Advocate

ORDER

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment in proceeding dated 29.03.2014, is under challenge in the present writ petition.

2.The husband of the writ petitioner Sri.K.Kumarasamy was engaged as Contract Labour in the respondent Electricity Board and thereafter, engaged as daily wage employee. The husband of the writ petitioner died on 08.10.2009 in a road accident.



3.The learned counsel for the writ petitioner states that on account of sudden demise of the husband of the writ petitioner, the family was an indigent circumstances and an application was submitted seeking appointment on compassionate ground. However, the claim of the writ petitioner was rejected on the ground that the husband of the writ petitioner was a contract employee initially and subsequently, daily wage payment was granted to the husband of the writ petitioner. The scheme of compassionate appointment is not applicable to the contract employees or daily wage employees. The scheme of compassionate appointment is applicable only to the permanent employees of the Electricity Board and therefore, the scheme cannot be extended in favour of the writ petitioner.

4.The scheme of compassionate appointment is a concession. The scheme being a non statutory one and the same cannot be extended in violation of its terms and condition. The Court cannot extend or expand the scope of the scheme can provide appointment in respect of the persons, who all are not covered under the scheme of compassionate appointment. The employers alone are empowered to constitute such policy and the Court has to verify the terms and conditions of the policy and if there is any violation of the terms and conditions by the employers, then alone the power of judicial review can be exercised under Article 226 of the constitution of India and not otherwise. In other words, by exercising the judicial review under Article 226 of the Constitution of India, the court cannot travel beyond the scope of the terms and conditions stipulated in the scheme of compassionate appointment. In the event of expanding the scope, the same will set a wrong precedent and many such ineligible persons will claim for a compassionate appointment. The scheme of compassionate appointment is restricted only to the permanent employees of the Tamil Nadu Electricity Board. Thus, the contract employees as well as the daily wage employees are not entitled to avail the benefit of the scheme of compassionate appointment. Even the regular Service Rules itself are not applicable to this employee.

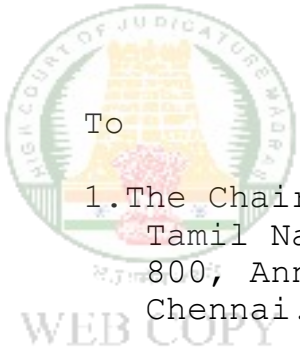
5.This being the scope of the claim set out by the writ petitioner, the husband of the writ petitioner, who was employed as daily wage employee at the time of death, is not entitled to avail the benefit of the scheme of compassionate appointment. Accordingly, there is no infirmity in respect of the order impugned passed and the said order is in consonance with the terms and conditions of the scheme of the compassionate appointment.

6.With the above observation, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

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2.The Chief Engineer,
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Tamil Nadu Electricity Board,
Meenakshinaickenpatti,
Dindigul-2.

+1 CC to M/s.S M. MOHAN GANDHI, Advocate (SR-83362[F] dated
26/08/2019)

W.P. (MD) No. 9506 of 2015
22.08.2019

NS
MS/10.09.2019/3P.5C