



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P (MD) No. 5403 of 2017

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C. Sabari Vinoth

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Power Generation and
Distribution Corporation,
TANGEDCO (TNEB),
NPKRR Maligai, No. 144, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer (Personal),
Tamil Nadu Power Generation and
Distribution Corporation,
TANGEDCO (TNEB),
NPKRR Maligai, No. 144, Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer (S.E.)
Tamilnadu Electricity Board,
Thoothukudi Distribution Circle,
Thoothukudi.

... Respondents

Prayer: 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 impugned order passed by the 3rd respondent dated 02.01.2017 in ka.en.1148/niaa/nipi2 /u2/ko.va.velai/2016 and quash the same and further direct the respondents to provide the petitioner an employment in any suitable post on his educational qualification under compassionate ground in their department.

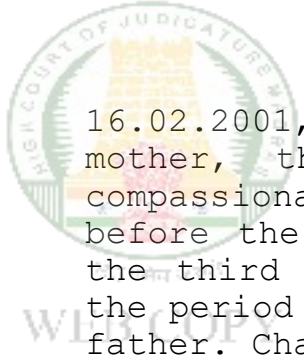
For Petitioner : Mr. A. B. Natarajan

For Respondents : Mrs. S. Srimathy
for M/s. SMS. Johny Basha

ORDER

This writ petition has been filed seeking to quash the impugned order passed by the third respondent dated 02.01.2017 in ka.en.1148/niaa/nipi2/u2/ko.va.velai/2016 and consequently direct the respondents to provide the petitioner an employment in any suitable post, based on his educational qualification under compassionate ground in their department.

2. According to the petitioner, his father was working in the respondent electricity Board for a period of 20 years and died on



16.02.2001, while in service, leaving behind the petitioner's mother, three elder sisters and one younger sister. Seeking compassionate appointment, the petitioner has made an application before the respondents on 06.07.2016 and the same was rejected by the third respondent stating that the application was made beyond the period of three years from the date of death of the petitioner's father. Challenging the same, this writ petition has been filed.

3. The learned Standing Counsel appearing for the respondents submitted that the petitioner made the representation beyond the period of three years. Therefore, the third respondent has rightly passed impugned order rejecting the application of the petitioner and hence, the same does not require any interference.

4. Heard the submissions made on either side.

5. Admittedly, the petitioner has made a representation on 29.02.2004 and thereafter, filed an application on 06.07.2016 and the same was rejected on 02.01.2017, but, no material has been placed before this Court to show that the petitioner has submitted the application under proper format to the respondents. Further, the petitioner has submitted the application after a lapse of three years and the same is barred by limitation in the light of the Government Order as well as the decision rendered by the Hon'ble Supreme Court in the case of **State of Himachal Pradesh and another V. Shashi Kumar** reported in **(2019) 3 Supreme Court Cases 652**. The relevant paragraphs of the said decision read as under:

"35. Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the Writ Petition before the High Court was instituted on 11 May 2015. The application for compassionate appointment was submitted on 8 May 2007. On 15 January 2008 the Additional Secretary had required that the amount realized by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In *Umesh Kumar Nagpal (supra)*, this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.

36. We are not impressed with the submission that delay should not be taken into account since Paragraph 8 of the Scheme contemplates that in a situation where all the dependant children of the deceased employee have yet to attain the age of majority, the time limit for submission of an application is extended until the first



of the children attains the age of twenty one years. A case where each of the children is a minor falls in a different class altogether. This cannot be equated with a situation where a dependant of a deceased employee who was a major on the date of death fails to submit an application within a reasonable period of time from the death of the employee. This aspect of delay has been dealt with in other decisions of this Court, including State of J & K Vs. Sajad Ahmed Mir and Local Administration Department Vs. M. Selvanayagam.

37. We see no reason or purpose in now directing the State to reconsider its decision in the case of the respondent which would only result in another round of fruitless litigation. In our view, the respondent is debarred from seeking compassionate appointment by the delay as well as by the lapse of time which has taken place."

6. In view of the above, this Court finds no reason to interfere with the impugned order of the third respondent dated 02.01.2017 in ka.en.1148/niaa/nipi2/u2/ko.va.velai/2016. The writ petition is dismissed accordingly. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

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Thoothukudi.



+1 CC to Mr.A.B.NATARAJAN, Advocate (SR-76081[F] dated 18/07/2019)

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