



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.1080 of 2016

J.Murugavenkatesh

.. Petitioner

Vs.

1. The Chief Engineer,
TANGEDCO, Chennai.

2. The Superintending Engineer,
Madurai Distribution Circle,
TANGEDCO, Madurai -7.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent made in மேலா/மமபவ/வரு/மது/நி.அ/நி.பி.2 /உ.3.கோ.வாரிசுவேலை/அ.எண்/2015 dated 04.07.2015 and the consequential proceedings of the 1st respondent made in letter No. 43209/309/G.8/G.82/2015-1 dated 01.09.2015 and consequently direct the 1st respondent to appoint the petitioner in compassionate ground.

For Petitioner : Mr.R.Murali

For Respondents : Mrs.S.Srimathy
for Mr.SMS.Johnny Basha

ORDER

This writ petition has been filed seeking to quash the proceedings of the second respondent in மேலா/மமபவ/வரு/மது/நி.அ/நி.பி.2 /உ.3.கோ.வாரிசுவேலை/அ.எண்/2015 dated 04.07.2015 and the consequential proceedings of the first respondent in letter No. 43209/309/G.8/G.82/2015-1, dated 01.09.2015 and consequently direct the first respondent to appoint the petitioner on compassionate ground.

2.According to the petitioner, his mother Srirangam Jothi, served as an Inspector of Assessment in the Tamil Nadu Electricity Board. She died on 06.08.2009, while in service. Subsequent to her



demise, the petitioner made an application seeking appointment on compassionate ground on 22.09.2010 to the respondents and the said application was rejected on 02.04.2013 stating that the petitioner's father has been working as a Draughting Officer in PWD department at the time of the demise of the petitioner's mother.

3. According to the petitioner, his mother died on 06.08.2009 and his father superannuated in the month of January 2010, hardly within a period of three months from the demise of his mother. The petitioner submitted the application on 22.09.2010 and at the time of submitting the application, the petitioner's father was not in service and he retired from the Department. The respondents have not taken note of the said fact and mechanically passed the impugned order and therefore, the same is liable to be quashed and the petitioner's claim may be directed to be reconsidered by the respondents.

4. The learned Standing Counsel for the respondents drew the attention of the Court to paragraph -7 of the counter affidavit filed by the second respondent, wherein it is stated as follows:

"7. I respectfully submit that as per Board Rules in the BP(Ch)No.330, dated 02.11.1993 clearly stated that "if a member of the family is already in employment and supports the family, then the restriction that if there is already any earning member in the family of the Government servant who died in harness, the other dependent of the deceased Government servant will not be eligible for compassionate appointment."

5. The facts of the present case is concerned, at the time of the demise of the petitioner's mother, the petitioner's father was working as Draughting Officer at PWD department. Therefore, as per the Board Rules, the petitioner has no right to seek employment on compassionate ground.

6. The learned counsel for the petitioner vehemently argued before the Court that the petitioner's father retired in the month of January 2010, after three months from the date of demise of the petitioner's mother. In such circumstances, this Court can consider the claim of the petitioner and direct the respondents to provide employment to the petitioner.

7. In ***State of Gujarat and others vs. Arvind Kumar T. Tiwari and another*** reported in ***2012 AIR SCW 5131 - (2012) 9 SCC 545***, the Hon'ble Supreme Court has held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

"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. v. Shashank Goswami & Anr., AIR 2012 SC 2294).

8. In **Umesh Kumar Nagpal Vs. State of Haryana & Ors.** reported in (1994) 4 SCC 138, the Hon'ble Supreme Court has considered the nature of right on which, a dependent can claim, while seeking employment on compassionate ground. The relevant portion reads as under:

*"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. ****

*The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned. ****

The only ground which can justify compassionate employment is the penurious condition of the deceased's family. The consideration for such employment is not a vested right. The object being to enable the family to get over the financial crisis."

9. Considering the facts and circumstances of the case and in the light of the the decisions cited supra, the contention of the petitioner to consider his claim sympathetically cannot be accepted and this Court finds no ground to interfere with the impugned orders.



10. Under the facts and circumstances of the case, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Chief Engineer,
TANGEDCO, Chennai.
2. The Superintending Engineer,
Madurai Distribution Circle,
TANGEDCO, Madurai -7.

+1 CC to Mr.M.SURESHKUMAR, Advocate (SR-77495[F] dated
25/07/2019)

W.P(MD) No.1080 of 2016
24.07.2019

mj

AE/(06.08.2019) 4P 4C