



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P (MD) No.1123 of 2016

WEB COPY

C. Avudaiappan

... Petitioner

Vs.

1. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
K. Pudur, Madurai - 625 007.

... 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 impugned letter made in Letter No.027858/530/NiPi3/U.3/Ko.Mu.Tha.Pi.Manu/2015 dated 25.11.2015 issued by the 1st respondent and quash the same and further direct the 1st Respondent to grant appointment on compassionate ground to the petitioner in the 1st Respondent Corporation.

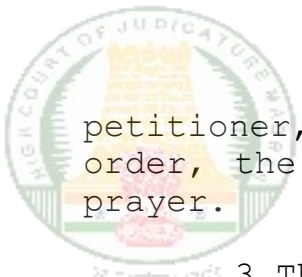
For Petitioner : Mr.M.Ramu

For Respondents : Mr.G.Kasinathadurai

ORDER

This writ petition has been filed seeking to quash the impugned letter of the first respondent in Letter No.027858/530/NiPi3/U.3/Ko.Mu.Tha.Pi.Manu/2015, dated 25.11.2015 and further direct the first respondent to grant appointment on compassionate ground to the petitioner in the first respondent Corporation.

2. According to the petitioner, his brother Balasubramanian was working as a Junior Assistant in the first respondent Corporation and he died in a road accident on 16.10.1996, while in service. At that time he was an unmarried and the petitioner and his mother are the dependents of the deceased Balasubramanian. Seeking appointment on compassionate ground, the petitioner made a representation to the Chief Minister's Cell on 15.09.2015. Thereafter, he made a representation dated 26.10.2015 to the second respondent and the same was referred to the first respondent. The first respondent, passed the impugned order dated 25.11.2015, rejecting the claim of the petitioner on the ground that there is no provision in the Corporation Rules to provide employment to the



petitioner, on the death of his brother. Challenging the aforesaid order, the petitioner is before this Court with the aforementioned prayer.

3. The learned counsel for the petitioner drew the attention of the Court to the amendment made in Government Letter (Ms) No. 55, Labour and Employment Department, dated 23.05.2006, which reads as follows:

"In the Annexure to the said Government Letter after item 18, under the N.B, for paragraph, the following shall be substituted namely:

(i) The term 'near relative' is defined and restricted to include only the wife/husband/son/unmarried daughter/adopted son/adopted unmarried daughters/widows/divorced or deserted daughter of the Government servant who dies in harness and unmarried brothers/unmarried sisters in case of the unmarried Government servant who dies in harness."

4. The contention of the petitioner is that in the aforesaid Letter 'near relative' has been clearly defined by the Government and therefore, the impugned order passed by the first respondent is liable to be quashed.

5. The learned Standing Counsel appearing for the respondents submitted that the petitioner's brother died in a road accident on 16.10.1996, whereas, the petitioner made an application to the Chief Minister's Cell on 15.09.2015 and thereafter he sent a representation on 26.10.2015 to the second respondent. There is a delay of more than 19 years in approaching the authorities, seeking appointment on compassionate ground and therefore, the petitioner is not entitled to get the relief on the ground of delay and laches. Therefore, this writ petition is liable to be dismissed.

6. In the case on hand, admittedly, the petitioner's brother died on 16.10.1996. The petitioner made an application seeking appointment on compassionate ground to the Chief Minister's Cell on 15.09.2015 and made another application on 26.10.2015 to the second respondent, after a lapse of 19 years. Therefore, the petitioner is debarred from seeking compassionate appointment on the ground of delay as well as in the light of 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."

7. Considering the facts and circumstances of the case and in view of the aforesaid decision rendered by the Hon'ble Supreme Court, this Court finds no reason to interfere with the impugned order of the first respondent in Letter No.027858/530/NiPi3/U.3/Ko.Mu.Tha.Pi.Manu/2015 dated 25.11.2015. The writ petition is dismissed accordingly. No costs.

Sd/-

Assistant Registrar

// True Copy //



To

1. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
K.Pudur, Madurai - 625 007.

+1 CC to Mr.G.KASINATHA DURAI, Advocate (SR-77535[F] dated
25/07/2019)

W.P(MD)No.1123 of 2016
24.07.2019

mj

MK (05.08.2019) 4P 4C