

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.11893 of 2013

Senthamarai,
W/o.Chandrasekaran
Renganathapuram,
Keezhkanavai Post,
Chettikulam Via,
Perambalur District.

.. Petitioner

- Vs -

1. The Chief Engineer,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai. - 600 002.

2. The Superintending Engineer,
Perambalur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Perambalur.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 22.02.2013 passed by the 2nd respondent in Ka.No.667/NiPi.1/Vu.4/Ko.Vave/2013 and quash the same and consequently direct the respondents to provide job by appointing the petitioner on compassionate grounds.

For Petitioner : M/S.N.Valliamma

for M/s.M.Christopher

For Respondents: Mr.Fakkir Mohideen

ORDER

The writ petitioner has filed the writ petition to call for the records pertaining to the order dated 22.02.2013 passed by the 2nd respondent in Ka.No.667/NiPi.1/Vu.4/Ko.Vave/2013 and to quash the same and consequently direct the respondents to provide job by appointing the petitioner on compassionate grounds.

2. The case of the petitioner is that the petitioner's husband was working as Mazdoor under the 2nd respondent Electricity Board and while he was in employment, he died due to an accident on 18.03.2009 leaving behind his wife, two minor children and his mother as his legal heirs. Thereafter, the petitioner sought employment under compassionate ground, by making a representation on 21.11.2011 to the 2nd respondent, which was denied by the 2nd respondent by reply dated 24.11.2011 on the ground that the her representation for compassionate appointment cannot be considered on the ground that she has not completed 8th standard. Thereafter, the petitioner, completing 8th standard made another representation to the respondents on 22.11.2012 for providing job opportunity under compassionate ground, however the same was rejected by the 2nd respondent vide his impugned order dated 22.02.2013, on sole ground that the application has been made beyond the period of three years. Assailing the said order, the present petition has been filed.

3. Though very many grounds have been raised in the affidavit filed in support of the petitioner, learned counsel appearing for the petitioner reiterated that the minimum qualification for appointment under the Tamil Nadu Basic Servant Rule is only 4th standard. However, the petitioner had completed 6th standard on the date of her initial representation. It is further submitted that subsequent to the rejection, the petitioner had also completed 8th standard and, therefore, denying job opportunity on compassionate ground is wholly unsustainable. Further, the delay of 8 months in submitting the second representation is only for the reason that the petitioner was pursuing her 8th standard and immediately on completion she had filed the representation and the said delay cannot be put against her claim to defeat her legitimate rights to get appointment. Accordingly, she prayed for allowing this writ petition.

4. Per contra, Mr. Fakkir Mohideen, learned standing counsel appearing for respondents filed a detailed counter affidavit and submitted that identical issue has been considered by the learned Single Judge of this Court in W.P.No.22606 of 2018 and the learned Single Judge has negatived the claim of the petitioner therein and the present petitioner, being a person identically placed, is not entitled to the relief sought for. Further, it is submitted by the learned standing counsel that compassionate appointment is covered by the Scheme framed by the Board and the Tamil Nadu Basic Servant Rule has no application. Therefore, he prays for dismissing the present petition.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. In W.A.No.2243 of 2019 [K.Manikandan vs. The Tamil Nadu Generation & Distribution Limited represented by its Chairman and Managing Direction & Others], a Division Bench of this Court, in an identical matter, has dismissed the plea of the petitioner therein for compassionate appointment.

7. A Full Bench of this Court, in W.P.(MD).No.7016 of 2011, etc., dated 11.03.2020, has held that any application for compassionate appointment beyond the period of three years cannot be considered and appointment cannot be granted on the basis of the said representation.

8. It is not in dispute that the petitioner herein is placed similar to the petitioner in W.P. No.22606 of 2018. Therefore, the ratio laid down by the Division Bench of this Court in the decision referred above is squarely applicable to the case on hand. Therefore, in view of the binding precedent, the plea of the petitioner for compassionate appointment cannot be acceded to. Further, the contention of the petitioner that Tamil Nadu Basic Servants Rule enables appointment of person in the post of Office Assistant on completion of four years will have not application to the case on hand, as compassionate appointment in the respondent Board is covered by the Scheme framed for this purpose and the said Rule will not be applicable for compassionate appointment. Further, the petitioner, as a matter of right, cannot claim compassionate appointment and only if the petitioner satisfies the condition prescribed in the scheme, the petitioner would be entitled for the benefit. In the case on hand, the petitioner not having satisfied the conditions prescribed under the Scheme framed by the Board, the decision of the Division Bench above noted is squarely attracted to the case on hand and the plea of the petitioner cannot be favourably considered.

9. For the reasons aforesaid, this writ petition fails and the same is dismissed. However, there shall be no order as to costs.

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Assistant Registrar
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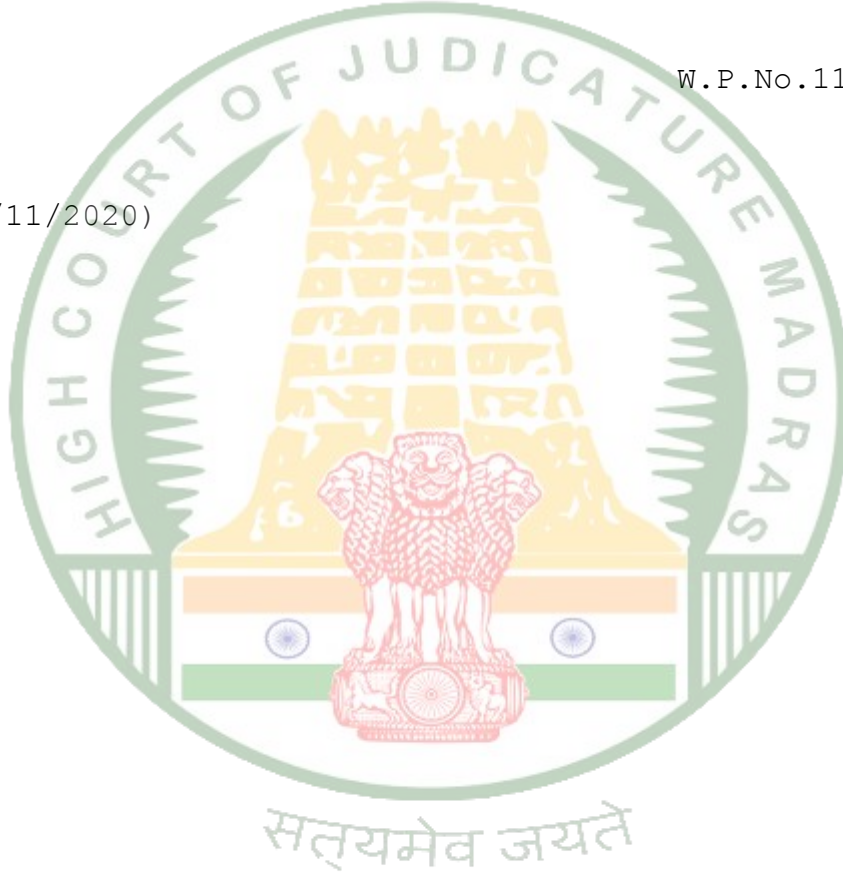
Sub Assistant Registrar

To

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Tamil Nadu Electricity Board,
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