

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11849 of 2011
and M.P. Nos.1 & 2 of 2011

R.Babu

.. Petitioner

-VS-

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002.

3.The Superintending Engineer,
Madras Distribution Circle,
Chennai South,
Chennai 600 067.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus calling for the records relating to the impugned order in Lr.No.09688/228/G-10/G-101/2006-3 dated 15.12.2006 passed by the second respondent and quash the same and consequently direct the respondents to appoint the petitioner on compassionate ground.

For Petitioner : Mr.M.Rajendran

For Respondents: Mr.P.R.Dhilip Kumar,
Standing Counsel for R1 to R3

ORDER

The petitioner has come to this Court challenging the impugned letter in Lr.No.09688/228/G-10/G-101/2006-3 dated 15.12.2006 issued by the Chief Engineer, Tamil Nadu Electricity Board, the second respondent herein and seeking a direction to the respondents to appoint him on compassionate ground.

2.Learned counsel appearing for the petitioner would submit that the petitioner's father Late Ramdass was employed as Lineman in the office of the Assistant Engineer, Tamil Nadu Electricity Board, Sothuperumbedu and he fallen down from the electric post and died leaving behind his mother, three sisters, two brothers, grand mother and son as legal heirs, while in service. Since their family has no adequate means of livelihood, the petitioner's brothers could not continue their studies. The petitioner's mother had submitted several representations to the respondents to provide employment opportunity on compassionate ground, but, the same were not considered. At the time of death of the petitioner's father, the petitioner was only 4 years. After attaining majority, the petitioner has submitted an application for compassionate appointment to the first respondent in the year 2004. But the same was rejected by the respondents on the ground that the petitioner has not submitted his application within three years from the date when B.P. No.46 dated 13.10.1995 came to be issued. Therefore, the petitioner is before this Court seeking the above prayer.

3.Counter affidavit has been filed by the Superintending Engineer, Madras Electricity Distribution Circle, the third respondent herein. Learned Standing Counsel appearing for the respondents would submit that as per BP. MS. (FB) NO.46 (Adm Br.) dated 13.10.1995, a person would be eligible for appointment on compassionate ground only if he passed 8th std. at the time of filing an Application. However, the candidate should have completed 18 years of age and that the application for appointment on compassionate ground should be made within 3 years from the date of death of the employee. Therefore, the petitioner has not fulfilled any of the conditions, with reference to the date of submission of application, completion of minimum age and the condition of educational qualification. Learned Standing Counsel would further submit that the Board adopted the Government Order in G.O. Ms. No.120 dated 26.06.1995 vide Board Proceedings B.P. No.46 (Administrative Branch) dated 13.10.1995 and as per the said scheme, the legal heirs of the deceased employee must apply for job assistance within three years from the date of the death of the deceased employee and must pass VIII std. and that the applicant should have completed 18 years of age. In the present case, the petitioner's father died on 24.02.1990 and at time time, the petitioner was aged about 4 years. After attaining majority in the year 2004, he cannot make any application.

4.Learned counsel appearing for the petitioner would further submit that as per (Per) B.P. No. Ms.(F.B) No.3 Administrative Branch dated 09.01.2007 holding that in respect of Board employee, who died prior to 13.10.1995, the condition that they should apply within 3 years, need not be applied and

they may be permitted to apply without insisting on any time limit, the petitioner's application ought to have been considered and that the request for compassionate appointment cannot be denied.

5. Taking support from the order dated 06.04.2004 passed by this Court in W.P. No.1584 of 2001 in the case of T.Meer Ismail Ali vs. the Tamil Nadu Electricity Board and others reported in 2004 (3) CTC 120 holding that Electricity Board is directed to consider the application for compassionate appointment, on merits and provide necessary relief to the petitioner as per rules, learned counsel appearing for the petitioner would submit that the petitioner therein completed 18 years of age only in the year 2000 and when the petitioner's earlier application was rejected on the ground that he did not complete 18 years of age, it cannot be held that the petitioner was not diligent in seeking for compassionate appointment at the earliest point of time.

6. In the present case, when the petitioner's father died on 24.02.1990, the petitioner was only four years old and that the respondents have rejected the claim of compassionate appointment merely on the ground that the petitioner did not attain 18 years before 12.10.1998. Since the date of birth of the petitioner would be 18.07.1986, he cannot attain 18 years before 12.10.1998. Though the petitioner's mother has given number of representations much earlier, she made another representation in the year 2004 and on 18.07.2004, the petitioner has made an Application and the same have been rejected. As the rejection of application is unjustifiable, the same is liable to go.

7. A perusal of the above order dated 06.04.2004 passed by this Court in W.P. No.1584 of 2001 would show that the respondents were directed to consider the petitioner's application, on merits and provide necessary relief to the petitioner in accordance with the rules relating to compassionate appointment. It is necessary to extract para 6 as under:

'6. I am, therefore, of the view that the petitioner's case deserves consideration inasmuch as he had diligently made a claim once in the year 1997 and thereafter, immediately after attaining the age of 18, in the year 2000 and in such circumstances, rejection of his application on the ground that it was not made within three years was not justified.'

8. It is seen that the petitioner's father late Ramdass, while working as Lineman in the office of the Assistant Engineer, Tamil Nadu Electricity Board, Sothuperumbedu, fallen down from the electric post and died on 24.02.1990 which clearly

shows that during the course of employment, the petitioner's father died. It is an unfortunate case where the petitioner, being the son of the deceased, has been denied compassionate appointment till now. As it is the duty of the respondents Electricity Board to take care of the bereaved family, the petitioner ought to have been provided with suitable employment. But the same has not been done.

9. Since the petitioner's request for compassionate appointment could have been considered as per (Per) B.P. No. Ms. (F.B) No.3 Administrative Branch dated 09.01.2007 holding that in respect of Board employee, who died prior to 13.10.1995, the condition that they should apply within 3 years, need not be applied and they may be permitted to apply without insisting on any time limit, the impugned order is set aside. Accordingly, the writ petition stands allowed and the respondents are directed to provide compassionate appointment within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar (CO-MDU)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002.

2. The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002.

3. The Superintending Engineer,
Madras Distribution Circle,
Chennai South,
Chennai 600 067.

+1cc to Mr.M.Rajendiran, Advocate SR.21040

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PM(CO)
CB(17/06/2020)