

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18243 of 2008

R.Surendran

...Petitioner

vs.

1. The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai - 2.
2. The Additional Chief Engineer,
Salem Electricity Distribution Circle,
Tamilnadu Electricity Board,
Salem - 14.
3. The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamilnadu Electricity Board,
Salem - 14.
4. R.Muralidharan

(R4 is impleaded as per order dated
20.08.2008 in M.P.No.1 of 2008 in
W.P.No.18243 of 2008).

....Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents to consider the claim of the Petitioner for appointment at Tamilnadu Electricity Board on compassionate grounds without insisting No Objection Certificate from all the legal heirs of the Petitioner's deceased father and allow this Writ Petition.

For Petitioner	:	No appearance for Mr.S.Kumar
For Respondents 1 to 3	:	Mr.Karthik Rajan
For 4 th Respondent	:	Mr.S.Ayyathurai

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to consider his claim for appointment in the Respondent/Electricity Board on compassionate

grounds without insisting upon 'No Objection Certificate' from all the legal heirs of his deceased father.

2. According to the Petitioner, his father Late. M.Ravichandran was employed in the Respondent/Electricity Board as 'Assistant' and died on 29.03.2002, while in service, due to massive heart attack. It is stated by the Petitioner that, his mother viz. R.Amudha, himself, his younger brother Jegan and his step-sister Suganya and his step-brother Muralidharan, are the legal heirs of his father. He further stated that, during the subsistence of his father's marriage with his mother, his father married one Manimegalai Rani and two children, viz. Suganya and Muralidharan were born to her.

3. The grievance of the Petitioner is that, his application for compassionate appointment in the Respondent/Department is not being considered, as his step-brother Muralidharan is refusing to give 'No Objection Certificate' to him for claiming appointment on compassionate grounds. According to the Petitioner, his family is struggling hard after the demise of his father and that, no action is being taken by the Respondent/Electricity Board on his claim for compassionate appointment.

4. When the matter is taken up for hearing today, none represented the Petitioner. Learned Standing Counsel appearing for the Respondent/Electricity Board submitted that, the Petitioner is gainfully employed elsewhere and hence, he cannot claim employment in the Respondent-Department on compassionate grounds.

5. Though the Petitioner has stated in his Affidavit that, his family is struggling hard after the demise of his father, he has not filed any evidence to prove that his family is living in an indigent circumstance. Moreover, when the Petitioner's father has other legal heirs, the Respondent-Department is right in seeking production of 'No Objection Certificate' from them and without producing the same, the Petitioner's claim could not be considered.

6. In a similar circumstance, the Apex Court in the case of Bhawani Prasad Sonkar vs. Union of India reported in (2011 (4) SCC 209), has held as under:

"20.Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public

authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment de-hors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the bread-winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

7. In view of the foregoing, this Court is of the view that, the Petitioner has to abide by the Rules and Regulations of the Respondent-Department. Also, it is for the Petitioner to prove that, he is not gainfully employed elsewhere. Hence, this Court is not inclined to grant the relief sought for by the Petitioner.

Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

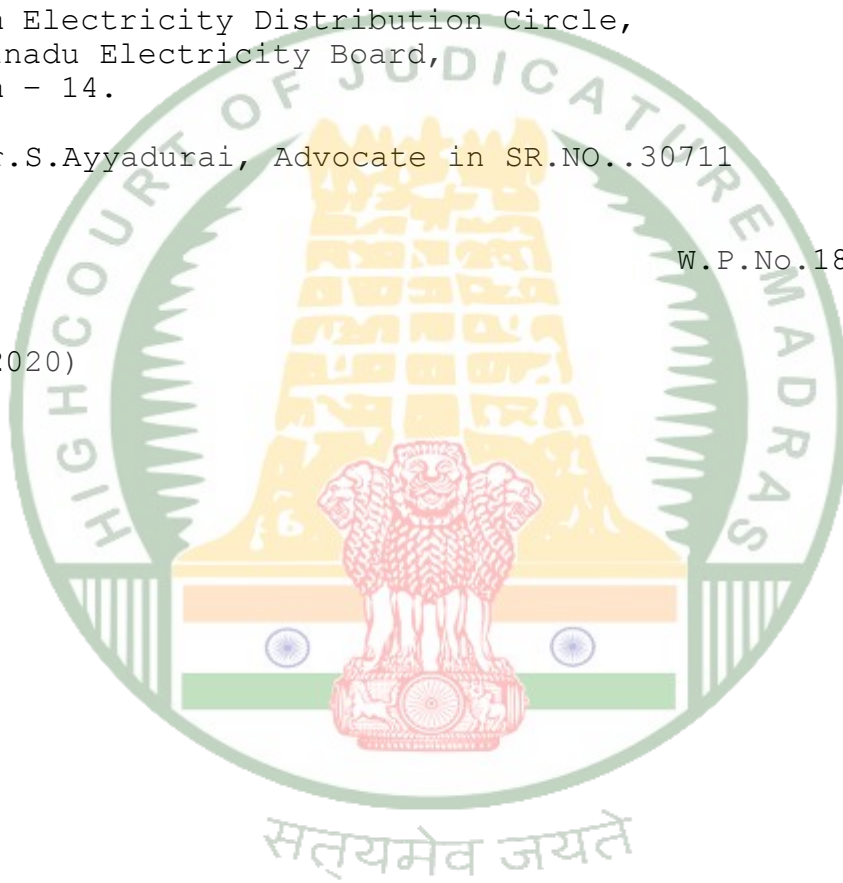
To:

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+1cc to Mr.S.Ayyadurai, Advocate in SR.NO..30711

W.P.No.18243 of 2008

RSK(CO)
RV(22/10/2020)



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