

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.19462 of 2013

P.Manova

.. Petitioner/Petitioner

-Vs -

1. The Tamil Nadu Generation and Distribution Corporation,
Rep. By its Chief Engineer,
New. NO.144, Anna Salai, Chennai 2.
2. The Additional Chief Engineer/
Superintending Engineer,
The Tamilnadu Generation and Distribution Corporation,
Salem Electricity Distribution Circle,
Salem -4. ... Respondents/Respondents

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 14.06.2008 in Ka.No.006048/74/ Ni.Pi2(2)/Ko.Vazhpadi/08 and the order dated 05.10.2012 in Proceedings No.Ku.Tha.Po/Se.Mi.Pa.Va/Se/Ni.Pi.II/00.2Ko.Va.Ve.No.142/2012 both passed by the 2nd respondent, quash the same and consequently direct the Respondents to provide the petitioner forthwith appointment on compassionate ground.

For Petitioner : M/s.V.Ajoy Khose
For Respondents : Mr.Karthick Rajan

ORDER

The petitioner filed this writ petition, to call for the records pertaining to the order dated 14.03.2008 in Ka.No.006048/74/ Ni.Pi2(2)/Ko.Vazhpadi/08 and the order dated 05.10.2012 in Proceedings No.Ku.Tha.Po/Se.Mi.Pa.Va/Se/Ni.Pi.II/00.2Ko.Va.Ve.No.142/2012 both passed by the 2nd respondent, quash the same and consequently direct the Respondents to provide the petitioner forthwith appointment on compassionate ground.

2.The case of the petitioner is that the petitioner's father was originally employed as a Contract Labour in the 2nd respondent Salem Electricity Distribution Circle and thereafter in the year 1991, the petitioner's father was absorbed as Helper and later promoted as Wiremen. While he was working as Wireman at Dasanyakanpatti O&M Section, he died in harness on 24.05.2001 leaving behind his mother, the petitioner's mother with three minor children. The petitioner states that on the date of death of his father, the petitioner's mother filed an application for seeking appointment on compassionate ground, but the application submitted by the petitioner's mother was initially rejected on 07.02.2005 and 26.07.2006, on account of the fact that she was not in possession of the requisite qualification for appointment. Therefore the petitioner's mother made a request through her application on 04.03.2008, for appointing the petitioner on compassionate ground. In the mean time the petitioner attained majority. Since the said request was beyond 3 years from the date of death of the Board employee, it was rejected by the 2nd respondent on 14.03.2008 vide Board proceedings in B.P.No.46, dated 13.10.1995. Thereafter the petitioner made a representation on 11.03.2012, seeking compassionate appointment and the same was also rejected on the ground that he could not apply for appointment on compassionate grounds as his application is beyond the period of three years. Challenging the impugned rejection orders passed by the 2nd respondent, the present petition has been filed with the above said prayer.

3.Learned counsel appearing for the petitioner submitted that though the initial application made by the petitioner's mother was rejected in the year 2006, however the petitioner's mother has not challenged the rejection order. However, the said rejection is only on the ground that the petitioner's mother was not possessed of 8th standard qualification, however at the relevant point of time the petitioner was a minor and after completing the 8th standard, he made repeated applications, however the request was rejected by the orders dated 07.05.2005 and 26.07.2006. Therefore he prays for allowing the petition.

4.Per contra, learned standing counsel appearing for the 2nd respondent submitted that initially the petitioner's mother made applications for providing employment under compassionate ground and the said applications were rejected twice, viz., on 7.5.2005 and 7.7.2006. Without challenging the rejection order the petitioner, filing the present petition for mandamus cannot be sustained. Further he pointed out that the Board has give an instruction under B.P.NO.17 dated 01.11.2011 to consider the request made by the minor heirs of the deceased Board employee who applied for employment under compassionate ground on or before 23.08.2005; in this case the petitioner had applied for

compassionate appointment only on 11.03.2012 which is beyond three years from the date of death of the Board employee; hence as per prevailing rules/instructions, the respondents rejected the request of the petitioner seeking compassionate appointment. In this regard, reliance was placed on the decision of the Division Bench of this Court in WA.NO.3899/2019, where the Division Bench has held that any application beyond the period of three years cannot be entertained.

5. Heard both side arguments and perused the materials available on record.

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after three years. In this regard, useful reference can be had to the decision of the Division Bench of this Court, in W.A.No.3899/2019, [P. Poongodi vs The Chairman] on which reliance has been placed by the respondents, wherein it has been categorically held that the claim for appointment on compassionate basis must be made without any delay. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly.

7. A perusal of the scheme framed by the Electricity Board cannot be extended to permit an applicant who was only two or three years of age when the employee died to make an application after fifteen years on attaining the age of majority. This was never an intention behind framing a scheme to provide appointment on compassionate basis. Further as per Board Proceeding No.46 and Board Proceeding No.17, does not permit the filing of an application after three years on attaining majority and therefore, this Court does not find any illegality or infirmity on the impugned orders passed by the 2nd respondent.

8. In the light of the decision of the Division Bench in Poongodi's case (supra), the present petition is wholly unsustainable and, accordingly deserves to be dismissed.

Accordingly, this writ petition stands dismissed. However there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Tamil Nadu Generation and Distribution Corporation,
Rep. By its Chief Engineer,
New. NO.144, Anna Salai, Chennai 2.
- 2.The Additional Chief Engineer/
Superintending Engineer,
The Tamilnadu Generation and Distribution Corporation,
Salem Electricity Distribution Circle,
Salem -4

+1cc to Mr.V.Ajoykhose, Advocate in SR.NO..27576
+1cc to Mr.Karthikeyan, Advocate in SR.NO..27580

W.P. NO.19462 OF 2013

kk(co)
rv(29/9/2020)

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