

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.27542 of 2010
and M.P. No.1 of 2010

S.Mangalakshmi

.. Petitioner

-vs-

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-2.

2.The Chief Engineer (Personnel),
Anna Salai,
Chennai-2.

3.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Ghandi Nagar, Vellore,
Vellore District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus calling for the records made in the impugned order of the third respondent in proceedings No.019974/1378/Ni.Pi.3/E.Ni.U/2010 dated 11.10.2010 quash the same and further direct the respondents to provide suitable employment to the petitioner on compassionate ground.

सत्यमेव जयते

For Petitioner : Mr.S.N.Ravichandran

For Respondents: Mr.M.Fakkir Mohideen
Standing Counsel

ORDER

The petitioner has come to this Court challenging the proceedings No.019974/1378/Ni.Pi.3/E.Ni.U/2010 dated 11.10.2010 issued by the third respondent and seeking a direction to the respondents to provide her suitable employment on compassionate ground.

2.Learned counsel appearing for the petitioner would submit that the petitioner's husband was employed as a Daily Casual Labour (Helper) in the Tamil Nadu Electricity Board at Sub-Station, Vaduganthangal, Vellore from 1994. He was paid Deepawali bonus every year and was paid monthly salary calculated on the basis of Rs.70/- per day. While he was in service, on 14.11.2006 he fell down from the electric post accidentally and suffered serious injuries. He was rushed to Vellore CMC Hospital on the same day and he was given treatment. At the time of accident, he was on duty. The petitioner's husband was the only breadwinner of the family and he sustained 80% disability and was not able to do any work. Thereafter, he died on 15.02.2010 leaving behind his father, mother, wife and son on account of grievous injuries suffered by him.

3.Learned counsel for the petitioner drawing the notice of this Court to the legal heirship certificate, submitted that the petitioner being the wife of the deceased, has to look after the entire family due to her husband's sudden demise. Therefore, an Application was immediately given on 07.05.2007 seeking compensation and the same was also granted. Thereafter on 20.03.2008 an Application was filed raising Industrial Dispute before the Labour Court seeking compassionate appointment. On receipt of the same, the Superintending Engineer, Vellore, acknowledging the receipt of the Application, refused the request of the petitioner citing a reason that the petitioner's husband was only a contract employee. Aggrieved by the same, the petitioner has come to this Court.

4.Taking support from an order dated 01.12.2010 passed by this Court in W.P. No.26461 of 2010 in the case of the Chairman, Tamil Nadu Electricity Board and two others, learned counsel appearing for the petitioner argued that in a similar circumstance, namely, a Contract Labour (Helper) in the Tamil Nadu Electricity Board at Vallakuttai, died on duty on 29.03.2009, the respondents were directed to provide suitable employment to the petitioner therein, the wife of the above deceased, following the judgment dated 13.11.2009 passed by the Division Bench of this Court in Writ Appeal (MD) No.717 of 2008. Therefore, learned counsel for the petitioner prays for the similar order.

5.Opposing the above submission, the learned counsel appearing for the respondents would submit that it is an admitted case that the petitioner's husband late R.Nandakumar, while serving as a Casual Labour, died leaving behind his parents, wife and son. When it is a settled legal position that compassionate appointment can be given only to those employees who are regularised in the respondents Corporation, the respondents are unable to accept the case of the petitioner because the petitioner's husband was not a regular employee on the date of his death.

6.It is an admitted fact that the petitioner's husband late R.Nandakumar was employed as a Daily Casual Labour (Helper) by the Tamil Nadu Electricity Board at Sub-station, Vaduganthangal, Vellore and he also served from 1994 onwards without any break and he was paid with Deepawali bonus every year from 1994. Thereafter, while on service on 14.11.2006, he fell down from the electric post accidentally and suffered serious injuries and he rushed to Vellore CMC Hospital, where he was given treatment. Subsequently, he died succumbed to grievous injuries. The legal heirs namely, his parents, wife and son filed a petition seeking compensation and the Deputy Commissioner II, Chennai has awarded Rs.4,18,460/- towards compensation with interest at the rate of 12% per annum.

7.A perusal of the judgment dated 13.11.2009 passed by the Division Bench of this Court in Writ Appeal (MD) No.717 of 2008 clearly shows that the petitioner is entitled to get suitable employment on compassionate ground. It is relevant to extract paragraph 6 as under:

'6.Following the said Division Bench decision, the impugned order dated 05.01.2010 passed by the third respondent is set aside and the respondents are directed to provide suitable employment to the petitioner on compassionate ground and consequently grant family pension and other benefits.'

8.In the light of the above, the writ petition stands allowed and the respondents are directed to provide suitable employment to the petitioner on compassionate ground within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P.is closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-2.

2.The Chief Engineer (Personnel),
Anna Salai, Chennai-2.

3.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Ghandi Nagar, Vellore,
Vellore District.

+1cc to Mr.M. Fakkir Mohideen, Advocate, S.R.No.19535

W.P.No.27542 of 2010
and M.P. No.1 of 2010

SV(CO)
EU 26.6.2020



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