

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.37986 of 2005

M.Manikandan

... Petitioner

-vs-

1. The Tamilnadu Electricity Board,
Rep. by its Chief Engineer (Personnel)
800, Anna Salai, Chennai-2.
 2. The Superintending Engineer,
Ramanathapuram Electricity Distribution Circle,
Tamilnadu Electricity Board,
Ramanathapuram.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Declaration, declaring that the action of the respondents in not providing appointment to the petitioner on the ground that the petitioner's application dated 25.02.2005 was not made within time as illegal and arbitrary and consequently, direct the respondents to provide him appointment forthwith on compassionate ground.

For Petitioner : Mr.V.Ajay Khose

For Respondents: Mr.Prashanth Ashok
For Mr.Karthik Rajan

O R D E R

Petitioner has come up with this Writ Petition, seeking to declare the action of the respondents in not providing the petitioner appointment on the ground that his application dated 25.02.2005 was not made within time. The petitioner also sought a direction to the respondents to provide him appointment forthwith on compassionate ground.

2. According to the Petitioner, his father died on 04.12.1995, while in service, due to ill health and at the time of his father's death, he was minor. It is stated by the Petitioner that, his brother made an application dated 06.05.1998 to the 1st respondent with a copy to the 2nd respondent for appointment on compassionate ground and the 2nd

respondent, by an order dated 31.12.1999, rejected the request of his brother for compassionate appointment, stating that he had studied only upto 7th standard. The petitioner further stated that, subsequent thereto, he made an application on 25.02.2005, followed by a representation on the same date by his mother to the 1st respondent along with all relevant certificates, seeking for an appointment on compassionate ground, which stood rejected on 14.03.2005 on the ground that the application was belatedly made. Aggrieved by the action of the 2nd respondent, the petitioner is before this Court.

3. Learned Standing Counsel appearing for the respondents contended that there is every justification on the part of the 2nd respondent in denying the compassionate appointment to the petitioner, as the application of the petitioner was received beyond the prescribed period of three years and at this distant point of time, the petitioner's request for such appointment cannot be considered.

4. A perusal of the case reveals that the father of the petitioner died on 04.12.1995 and thereafter, brother of the petitioner, who had completed his 7th standard at that time, made an application for compassionate appointment and his request was declined on the reasoning that he did not have a minimum qualification. It is stated by the petitioner that his brother wrote a letter dated 12.01.2000 to the 1st respondent to keep his application pending till his completion of 8th standard. The said submission cannot be accepted, as there is no reservation prescribed in the matter of appointment on compassionate ground, as the main object of providing such appointment is to overcome the immediate crisis on sudden death of the earning member. Moreover, it is not known as to why the mother of the petitioner did not make any application for employment on compassionate ground and all of a sudden, the petitioner woke up from slumber and sought for an appointment on compassionate ground in the year 2005, viz., after a lapse of 10 years, which cannot be acceptable. Compassionate appointment cannot be demanded as a matter of right and only to safeguard the family, which is in distress on account of demise of the employee / earning member of the family and to come out from the indigenous circumstances, such appointments are widely made. I have also considered various judgments of the Apex Court and rendered a finding with regard to compassionate appointment in the case of S.Gowtham Balu The Managing Director, Tamil Nadu Electricity Generation and Distribution Corporation, 144, Anna Salai, Chennai - 600 002 and another [W.P.(MD)Nos.4129, 7045, 16624 and 20786 of 2014] decided on 24.09.2018.

5. The Apex Court in the case of Bhawani Prasad Sonkar vs. Union of India reported in 2011 (4) SCC 209, held as under:

"20. Thus while considering a claim for employment on compassionate ground, the following

<https://hcservices.ecourts.gov.in/hcservices/>

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#126;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#126;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#45;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."

6. In view of the foregoing discussions and following the judgments of the Apex Court as well as this Court, in the considered opinion of this Court, the claim of the petitioner, that too after a lapse of nearly 10 years, has no substance and the Writ Petition is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Chief Engineer (Personnel),
Tamilnadu Electricity Board,
800, Anna Salai, Chennai-2.

2. The Superintending Engineer,
Ramanathapuram Electricity Distribution Circle,
Tamilnadu Electricity Board,
Ramanathapuram.

W.P.No.37986 of 2005

KJ(CO)
GN(02/11/2020)



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