

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.38036 of 2005

N.Kanakaraj

... Petitioner

-vs-

1. The Chief Engineer (Personnel),
Tamilnadu Electricity Board,
800, Anna Salai, Chennai-2.
2. Tamilnadu Electricity Board,
Rep. by its Superintending Engineer,
Erode Electricity Distribution Circle,
Erode-9.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 30.12.2003 passed by the 2nd respondent in Letter No.042371/1466/Ni.Pi.2(3)/Ko.Va.Ve/03, quash the same and consequently, direct the respondents to provide the petitioner forthwith appointment on compassionate ground.

For Petitioner : Mr.V.Ajoy Khose
For Respondents : Mr.Karthik Rajan

O R D E R

Petitioner has come up with this Writ Petition, seeking to quash the order dated 30.12.2003 passed by the 2nd respondent in Letter No.042371/1466/Ni.Pi.2(3)/Ko.Va.Ve/03, by which the request of the petitioner for appointment on compassionate ground was rejected on the ground that his first application dated 18.01.1998 was not made within time and that the petitioner had not completed 18 years of age on the date of application. 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 22.09.1987, while in service, due to a massive heart attack and at the time of his father's death, he was minor. It is stated by

the Petitioner that, he had submitted an application on 18.01.1998 after he attained the age of 18 years and the 2nd respondent, by an order dated 30.12.2003, rejected the request of the petitioner for compassionate appointment, stating 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 22.09.1987 and the petitioner made his first application for compassionate appointment only on 18.01.1998 and his request was declined on the reasoning that he did not send the application in time and he had not attained the age of majority on that date. It is pertinent to state here that the main object of providing compassionate 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 waited for her son, namely, the petitioner herein to complete 18 years of age. 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 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 dehors 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 breadwinner 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."

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 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(CS III)

//True Copy//

Sub Assistant Registrar

To:

1. The Chief Engineer (Personnel),
Tamilnadu Electricity Board,
800, Anna Salai, Chennai-2.
2. The Superintending Engineer,
Tamilnadu Electricity Board,
Erode Electricity Distribution Circle,
Erode-9.

+1cc to Mr.V.Ajoy Khose, Advocate, Sr.No.26010

W.P.No.38036 of 2005

rr ii(27/11/2020)