

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.30125 of 2004

S.Kuppuraj

..

Petitioner

-vs-

1. The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai 600 002
2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board
K.R.R.Maligai
No.800, Anna Salai
Chennai 600 002
3. The Superintending Engineer/SAEDC
Tamil Nadu Electricity Board
No.13/A, Nethaji Salai
Cuddalore, Cuddalore District .. Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relevant to the order in Letter No.25641/239/VE/Karu.01-04/Nir.2(4)/2003-1 dated 24.1.2004 passed by the third respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice and thereby direct the respondents to appoint the petitioner in any post in the respondent Electricity Board under the compassionate ground.

For Petitioner :: Mr.B.Gopalakrishnan for
M/s E.M.K.Yashwant Rao

For Respondents :: Mr.Karthick Rajan
Standing Counsel

ORDER

S.Kuppuraj, S/o late R.Samikkannu has filed this writ petition under Article 226 of the Constitution of India in the year 2004, challenging the impugned order dated 24.1.2004 passed by the Superintending Engineer, South Arcot Electricity Distribution Circle, Tamil Nadu Electricity Board, Cuddalore, the third respondent herein refusing the request of the petitioner for compassionate appointment.

2. Learned counsel for the petitioner submitted that the petitioner's father, late R.Samikkannu, while serving in the office of the third respondent as Helper, after rendering several years of service, died on 24.1.84 due to severe illness. This was informed to the respondents and they also paid the funeral expenses, as per Rules of the State Government and the Tamil Nadu Electricity Board. Immediately thereafter, the petitioner's mother Tmt.S.Ambika and the petitioner being the legal heirs, made an application seeking compassionate appointment to the petitioner's mother. Although the petitioner and his mother, after making various representations, were waiting for a favourable response, finally, the respondents impliedly rejected the request and thereafter, when the petitioner attained majority in the year 2001, renewed his request for compassionate appointment and this was also refused vide the impugned order passed by the third respondent. Therefore, the petitioner has questioned the legality of the impugned order refusing the prayer for compassionate appointment. When the petitioner was minor on the date of death of his father, namely, 24.1.84, it has been the practice in the respondent-Electricity Board to wait till the minor attains majority and then, within three years from the date of attaining majority, a fresh application seeking compassionate appointment can be made. Following the said usual practice, the petitioner has filed a detailed representation within three years from the date of attaining majority. But again the third respondent has rejected the request of the petitioner, on the ground that the application filed by the petitioner was belated. Hence, the reasoning given in the impugned order is liable to go.

3. The learned standing counsel for the respondents, urging this Court to dismiss the writ petition, has stated that when the petitioner's father died on 24.1.84, admittedly, the petitioner was a minor. That shows that he was ineligible. After several long years, in the guise of attaining majority, the request for compassionate appointment cannot be renewed. In support of his submission, he has also relied upon a Division Bench judgment of this Court made in Writ Appeal Nos.336 of 2003, 997 & 1006 of 2006 dated 18.9.2006 (E.Ramasamy v. Tamil Nadu Electricity Board represented by its Chairman and another)

etc., rejecting a similar prayer.

4. Heard both sides.

5. In similar circumstances, the Hon'ble Division Bench of this Court, in Writ Appeal Nos.336 of 2003, 997 & 1006 of 2006 dated 18.9.2006 (E.Ramasamy v. Tamil Nadu Electricity Board represented by its Chairman and another) etc., rejecting a similar payer, has held that there cannot be reservation of a vacancy till such time the applicant becomes a major after a number of years, as the very basis of compassionate appointment is to see that the family gets immediate relief. An application made after the period stipulated under the scheme is not maintainable, inasmuch as it is not permissible to hold that such application could be made after attaining majority. The Division Bench also, while laying down the law, has again held that if an applicant is minor on the date of death of his father or mother, after attaining majority, beyond a period of three years from the date of death, cannot move any application.

6. In the present case also, the petitioner's father died on 24.1.84. On the said date, the petitioner was admittedly a minor. Secondly, the petitioner claims that his mother also made an application. But there is no proof produced before this Court to show that his mother made an application in the interregnum. Thirdly, as held by the Hon'ble Division Bench in E.Ramasamy's case (cited supra), any application seeking compassionate appointment after attaining majority, which is beyond a period of three years stipulated under the scheme, cannot be entertained at all. The relevant paragraphs of the said judgment, read thus:-

"17. In Sanjay Kumar's case (cited supra), the Court has expressly held that there cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief. An application made after the period stipulated under the scheme is not maintainable, and it is not permissible to hold that such application could be made after attaining majority. We are afraid, the Division Bench which rendered the judgment in Indiraniammal v. The Chief Engineer (Personnel), The Tamil Nadu Electricity Board, No.800, Anna Salai, Chennai 600 002 and another) (cited supra) has not followed the earlier decisions of the Supreme Court and does not lay down correct

law. The order of the learned single Judge in Meer Ismail Ali.T v. The Tamil Nadu Electricity Board (cited supra) is rather cryptic wherein the learned single Judge has observed that without going into the merits of the controversy the petitioner be given employment on humanitarian consideration. None of the judgments of the Supreme Court cited above are considered.

18. Coming to the facts of W.A.No.336 of 2003, it is seen that the father of the appellant died on 22.01.1994, and the application for compassionate appointment was made by the appellant only in the year 2002 after attaining majority, which was obviously beyond the period prescribed under the scheme. In W.A.No.997 of 2006, the application was made by the respondent within three years, but at that time he was a minor, and therefore the application was not maintainable. The respondent attained majority only in the year 2003 and thereafter he made the second application, which was also rejected by the Board as the same was filed beyond three years time. Similarly in W.A.No.1006/2006, the application for compassionate appointment was made by the respondent when he was a minor and was, therefore, rightly rejected by the Board. A fresh application was made only in the year 2005, which was beyond the period of three years. Consequently, the Board rejected the application as it was filed beyond the prescribed period of three years. Thus in none of these cases the applications were made within three years period as prescribed by the scheme. Under the circumstances, the Board was justified in rejecting the request for compassionate appointment."

7. In the light of the above, the prayer of the petitioner cannot be entertained, as it is covered by the ratio laid down by the Hon'ble Division Bench in the judgment cited supra. Accordingly, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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No.13/A, Nethaji Salai
Cuddalore, Cuddalore District

+1cc to Mr.Karthik Rajan, Advocate, S.R.No.18504

W.P.No.30125 of 2004

MP (CO)
nvi/26.05.2020

सत्यमेव जयते

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