



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.08.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.10146 of 2020

and

W.M.P(MD).No.9030 of 2020

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M.Palanisamy

... Petitioner

-Vs-

1. The Chief Engineer (Personnel),
TANGEDCO,
8th Floor, Eastern Wing,
NPKRR Maaligai,
144, Annasalai, Chennai-2.

2. The Superintending Engineer,
TANGEDCO,
Distribution Division,
Pudukottai, Pudukottai District.

3. The Executive Engineer,
TANGEDCO,
Aranthangi Distribution Division,
Aranthangi, Pudukottai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Ka.No.007026/Ni.Aa/Ne.Pe.1/Go.Va.Ve/2019 dated 10.10.2019 issued by the second respondent and quash the same and consequently direct the respondents to provide an employment on compassionate basis to the petitioner based on petitioner representation dated 25.04.2019 and on his educational qualification.

For Petitioner : Mr.P.Jeyasankar

For Respondents : Mr.T.Sakthikumaran
Standing Counsel

ORDER

Prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Ka.No.007026/Ni.Aa/Ne.Pe.1/Go.Va.Ve/2019, dated 10.10.2019, issued by the second respondent and quash the same and consequently, direct the respondents to provide an employment on compassionate basis to the petitioner based on petitioner's representation, dated 25.04.2019 and on his educational qualification.



2. Heard Mr.P.Jeyasankar, learned counsel appearing for the petitioner and Mr.T.Sakthikumaran, learned Standing Counsel, who takes notice on behalf of the respondents.

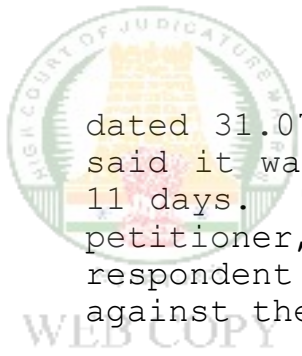
3. By consent of both sides, this writ petition is taken up for final disposal at the admissions stage itself.

4. The petitioner's father was working as Line Inspector at the respondents TANGEDCO and while he was in service, he died in harness on 26.04.2016 leaving behind the petitioner, who is the son of the deceased and other family members. Since the head of the family, who is the bread winner of the family, suddenly died, the family of the petitioner has been put in penurious circumstances. Therefore, in order to get a job on compassionate ground, the petitioner claimed to have made an application in format with all necessary documents on 25.04.2019 to the second respondent in person. Thereafter, further request was made on 31.07.2019 seeking for compassionate appointment.

5. Now, the second respondent, by impugned order dated 10.10.2019, has rejected the request of the petitioner stating that, if at all, the petitioner wanted to consider his candidature for compassionate appointment in lieu of death of his father, such an application should have been made within three years period i.e., on or before 25.04.2019 from the date of death of his father, who died on 26.04.2016. However, with the delay of 2 months 11 days, the application was made only on 31.07.2019, therefore, on that ground, the application has been rejected through the impugned order. Challenging the same, the preset writ petition has been filed with the aforesaid prayer.

6. The learned counsel appearing for the petitioner would submit that, within the three years period i.e., on 25.04.2019 itself application has been given and a copy of the said application in manuscript along with annexure-1 in format given on 25.04.2019 by the petitioner has been filed in the typed set of papers. Along with the said documents, the certificate issued by the Tahsildar to establish that, the petitioner's family is in indigent circumstances for the purpose of getting compassionate appointment, also was annexed, that was given by the Tahsildar on 24.04.2019 and also, the other certificate like Community Certificate, Educational Qualification of the petitioner and Transfer Certificate issued by the official concerned, all have been annexed along with the application.

7. The learned counsel appearing for the petitioner further submitted that, the said application since has been given in person to the second respondent on the last day of ending three years period i.e., on 25.04.2019, the said application should have been considered by the respondent, but the subsequent representation,



dated 31.07.2019 alone was taken into account and accordingly, they said it was submitted beyond the three years period i.e., 2 months 11 days. The said reason, according to the learned counsel for the petitioner, given by the respondents, especially, the second respondent is palpably wrong. Therefore, interference is called for against the impugned order.

8.However, the learned Standing Counsel appearing for the respondents TANGEDCO would submit that, as per the procedure in vogue, if any application is to be made seeking compassionate appointment, such application with all relevant documents should have been made to the concerned Superintending Engineer of TANGEDCO within three years period and in this case, since the petitioner's father, who was employee of the TANGEDCO, died on 26.04.2016, therefore, the application should have been made within three years period i.e., on or before 25.04.2019. However, the application since has not been submitted within three years period and it was submitted only on 31.07.2019 with the delay of 2 months 11 days, the same is liable to be rejected. Accordingly, it was rejected ofcourse rightly by the respondents, especially, the second respondent. Therefore, the impugned order requires no interference from this Court.

9.I have considered the said submissions made by the learned counsel on both sides and perused the materials placed before this Court.

10.Even according to the impugned order, since the respondents have taken 31.07.2019 is the date of application, therefore, the delay was only 2 months 11 days. However, it is the strong claim of the petitioner that, the application was submitted in persons to the second respondent office on 25.04.2019. The copy of the application, dated 25.04.2019 along with the necessary documents and format application also had been filed before this Court in the typed set of papers. One of such document is, the certificate issued by the Tahsildar, dated 24.04.2019. Therefore, only after getting such certificate from the Tahsildar on the previous date i.e., on 24.04.2019, the petitioner made an application on 25.04.2019, where he has submitted all other documents.

11.Therefore, in all fairness the said application shall be taken into account by the respondents.

12.Assuming that, it was not on 25.04.2019, but only on 31.07.2019 that application was filed, in between there is a delay of 2 months 11 days. The said delay is only minimal. Therefore, this Court feels that, the said delay can very well be condoned.

13.The reasons being that, appointment on compassionate ground is given to needy people only in order to bail out the family of the



deceased employee, who suddenly died leaving behind the entire family at lurch, from the penurious and indigent circumstances.

14.Only in order to bail out the family from the said circumstances, the concerned employer is to give compassionate appointment to any one of the legal heir of the deceased employee's family.

15.When that being the position, the technicality of delay of 2 months 11 days, as has been projected as the only reason in the impugned order, in the considered opinion of this Court, cannot be accepted. More over, it is not at all the case of the petitioner, that he accepts the said reasons, because on 25.04.2019, the petitioner has claimed, that he has given necessary application in format with all relevant documents including the certificate issued by the Tahsildar ,dated 24.04.2019 to the second respondent office in person.

16.Therefore, in all fairness, the said application shall only be construed as an application within time and accordingly, the same should have been considered on merits and in accordance with law by the respondents. When that being the position, now it has been rejected on the ground of alleged delay of 2 months 11 days, hence the same cannot be sustained. Accordingly, the impugned order is liable to be interfered with.

17.In the result, the impugned order is quashed and the matter is remitted back to the respondents for reconsideration. While reconsidering the same, the application submitted by the petitioner, dated 25.04.2019 in person to the second respondent office shall be taken into account and accordingly, the same shall be processed on merits and in accordance with law and necessary orders to that effect shall be passed by the respondents as expeditiously as possible preferably within a period of three (3) months.

18.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

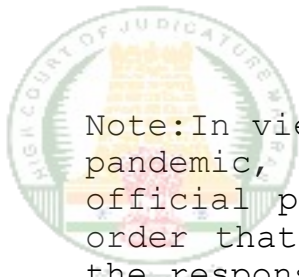
Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

WEB COPY

To

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TANGEDCO,
Aranthangi Distribution Division,
Aranthangi, Pudukottai District.

+1 CC to Mr.T.SAKTHIKUMARAN, Advocate SR-15163.
+1 CC to Mr.P.JEYASANKAR, Advocate SR-15205.

W.P. (MD) No.10146 of 2020
27.08.2020

VR (CO)
CS (24.11.2020) 5P 6C