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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	28.02.2020
Pronounced on	29.06.2020

CORAM:
THE HONOURABLE MR. JUSTICE M.S.RAMESH
W.P.(MD) No.8793 of 2016
and
W.M.P.(MD) No.6991 of 2016

C.Manikandan ...Petitioner

Vs.

1.The Chairman,
Tamilnadu Electricity Generation and
Distribution Corporation (TANGEDCO),
Annasalai,
Chennai.

2.The Additional Chief Engineer,
Tamilnadu Electricity Generation and
Distribution Corporation (TANGEDCO),
Pudukottai Electricity Distribution Circle,
Pudukottai.

3.The Superintending Engineer,
TANGEDCO,
Pudukottai Electricity Distribution Circle,
Pudukottai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Ka.No.17374/737/nibil/u1/ko.va.ve/2006-1 dated 25.11.2006 and consequential order of the 3rd respondent vide A.Sa.Ku.No.087626/489/g.10/g.102/2015-2 dated 28.11.2015 quash the same as illegal and consequently to direct the respondents to provide compassionate appointment to the petitioner.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.T.Sakthikumaran

O R D E R

The petitioner's father, while working as a wireman under the respondents, died in harness, on 06.09.1991. He was survived by his wife, three daughters and one son. The petitioner herein, was aged about 6 years at the time of the death of his father. The

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petitioner's mother made a request seeking compassionate appointment for her son on 06.11.2006, which was rejected by the first respondent herein through the impugned order dated 28.11.2015 on the ground that the application was not made within a period of three years from the date of death of the employee. The rejection order is put under challenge in the present Writ Petition.

2. Heard Mr.M.Saravanan, learned counsel for the petitioner and Mr.T.Sakthikumaran, learned Standing counsel appearing on behalf of the respondents.

3. The present petition deserves to be allowed on the ground that three years period stipulated in G.S.Ms.No.120, Labour and Employment, dated 26.06.1995 would be made applicable only to the Government Servants who died on or after 26.06.1995 as per the Government clarification in G.O.Ms.No.1479, Home (POL.XV) Department, dated 09.11.1999. As such, the limitation prescribed under G.O.Ms.No.120, Labour and Employment, dated 26.06.1995 is not applicable to the petitioner's case since his father died on 06.09.1991. Accordingly, the impugned rejection order dated 28.11.2015 is unsustainable.

4. Furthermore, the Hon'ble Division Bench of this Court had earlier in an order passed in W.A.(MD)No.1400 of 2011 dated 16.12.2015 in the case of ***S.Velraj Vs. The Superintendint Engineer, TNEB, Tirunelveli and another***, had held that three years limitations prescribed for making an application for compassionate appointment cannot be applied in a strait jacket formula and each and every case has to be approached differently, based on the facts. The Scheme for appointment on compassionate ground to the children of the deceased employee is a welfare scheme, to tide over the financial constraints of the bereaved family due to the sudden demise of the breadwinner of the family.

5. In the present case, the petitioner's father died on 06.09.1991, while he was working as a Wireman in the respondent Board, leaving behind his wife, three daughters and the petitioner herein as his legal heirs. The petitioner's mother claims to have made an application seeking for compassionate appointment on 06.11.2006. Though the application was made beyond the period of three years from the date of death of the employee, the Hon'ble Division Bench in *Velraj's case (supra)* had held that three years period stipulated cannot be taken as a hard and fast rule and that, each case requires to be considered on the facts and circumstances. By applying the ratio laid down by the Hon'ble Division Bench in the aforesaid decision, this Court is of the view that, petitioner's case requires to be considered positively.

6. It would be pertinent to point out that in all cases where claim is made for compassionate appointment, the concerned

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authorities are required to act efficaciously and speedily, since the very purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread-earner in the family and that there should not be any delay in such appointments. This proposition was held by the Hon'ble Apex Court in the case of **Sushma Gosain vs. Union of India** reported in **1989 (4) SCC 468** had held as follows:

> *'It must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.'*

7. The same ratio was reiterated by the Hon'ble Apex Court in the case of **Canara Bank vs. M.Mahesh Kumar** reported in **2015 (7) SCC 412.** The impugned order in the present case is in total disregard to the aforesaid decisions. The application dated 06.11.2006 seeking compassionate appointment, came to be rejected after 10 years on 28.11.2015. The delay apparently, is inordinate and on this ground of laches also, the petitioner would be entitled to succeed.

8. In the light of the above observations, the impugned orders passed by the respondents 2 & 3 dated 25.11.2006 & 28.11.2015 are set aside. Consequently, there shall be a direction to the concerned respondent to issue an appointment order to the petitioner herein, on compassionate grounds, to such post that may be proportionate to the petitioner's qualification. The concerned respondent shall ensure that the appointment order is issued atleast within a period of four weeks form the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. Connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Crl.Side)

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Sub Assistant Registrar(CS)

DP/SM

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Order made in
W.P.(MD) No.8793 of 2016
and
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AP(07/09/2020) 4P 4C

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