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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3720 of 2021 and
W.M.P. No.4248 of 2020

K.Vijayalakshmi

... Petitioner

-vs-

1. The Chief Engineer (Personal),
Tamil Nadu Electricity Generation
and Distribution Corporation,
Anna Salai, Chennai 600 002.

2. The Superintending Engineer,
TANGEDCO,
Villupuram Electricity Distribution Circle,
Villupuram.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider and pass orders in the representation of the petitioner, dated 03.11.2020 by giving any one of the available posts in the respondents Corporation for the petitioner or her daughter, namely, Miss.Narmatha on the compassionate ground due to the death of the deceased employee Mr.Kumar who died on 17.10.2013.

For Petitioner : Mr.Na.Malai Saravanan

For Respondents : Mr.Fakkir Mohideen

O R D E R

This Writ petition has been filed by the petitioner, seeking a direction to the respondents to consider and pass orders on her representation dated 03.11.2020, by granting a post in the respondents Corporation either to her or to her daughter, namely, Miss.Narmatha on compassionate ground due to the death of the her husband / deceased employee, namely, Mr.Kumar, who died on 17.10.2013.



3. It is the case of the petitioner that her husband, while working as Assessor Grade-II in the respondents Corporation, died in harness on 17.10.2013. Thereafter, the petitioner, being the wife of the deceased employee submitted an application before the respondents on 19.11.2013, seeking compassionate appointment to her. The 2nd respondent rejected the application of the petitioner on 26.03.2018, on the ground that the legal heir petitioner had not completed 8th standard. Thereafter, the petitioner has made various representations dated 27.03.2019, 09.09.2019 and 03.11.2020, requesting the respondents to give appointment either for her or to her daughter who has completed 8th standard. As there is no response on the representation of the petitioner, the petitioner has preferred the writ petition.

5. It is not known as to why the petitioner has not challenged the rejection order dated 26.03.2018, instead, she has been making repeated representations to the respondents for the grant of compassionate appointment with the similar request and there is no rule to give post to next legal heir. While considering the claim for employment on compassionate ground, the Apex Court, in the case of Bhawani Prasad Sonkar vs. Union of India and others reported in (2011 (4) SCC 209), has discussed various factors that have to be borne in mind. Relevant portion of the said judgment is extracted hereunder:

(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



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scheme, and no discretion as such is left with any authority to make compassionate appointment de-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-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'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."

In similar circumstances, I have also held that the Compassionate appointment is not a matter of right of a person and it can at the most be considered as a back door entry in W.P.(MD) No.4129 of 2014 dated 24.09.2018.

6. At this juncture, Mr.M.Fakkir Mohideen, learned Standing counsel appearing for the respondents contended that the limitation of three years from the date of death of the deceased employee is strictly followed in the light of the judgment of the Full Bench Judgment of this Court in W.P.(MD) No.7016 of 2011 dated 11.03.2020, wherein it was held as follows:

"13. In the light of the above we find that the judgment in the case of A. Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E. Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment,



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misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein above.

14. Where there is a contest between legal heirs, priority should be given to the one who is befitting enough to shoulder the responsibility of destitution of the family. In the event there is a Court intervention, the orders passed or final verdict should be adhered to. In the event of mere pendency, appointment may be given subject to the outcome of the litigation or any orders passed by the Court to that effect."

7. It should be remembered that compassionate appointment is not an usual recruitment process and the candidates seeking such appointment will have to satisfy all the requirements contemplated under the Rules with regard to age, qualification, etc, but however, it is subject to relaxation depending upon the circumstances of each case. As the Petitioner herein did not possess the required educational qualification within the stipulated period, she is not entitled to the relief sought for in this Writ Petition.

8. Hence, finding no merits in this Writ Petition, the same is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO IV)

//True Copy//

Sub Assistant Registrar

vum/ar

To

- 1) The Chief Engineer (Personal),
Tamil Nadu Electricity and Distribution Corporation,
Anna Salai Chennai - 2.



2. The Superintending Engineer,
TANGEDCO,
Villupuram Electricity Distribution Circle,
Villupuram.

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+1cc to Mr.Na.Malai Saravanan, Advocate, S.R.No.11243

+1cc to Mr.Fakkir Mohideen, Advocate, S.R.No. 10962

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GPL (CO)

CT(22/07/2021)