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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.NO.999 OF 2021

K.Meena

... Appellant/Petitioner

.Vs.

1. Tamil Nadu Generation and Distribution
Corporation Ltd.,
Rep. by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer, Personnel,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai - 600 002.

3. The Superintending Engineer (Electrical),
Ennore Thermal Power Station,
TANGEDCO, Ennore,
Chennai - 600 057.

... Respondents/Respondents

PRAYER:-

Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 15.09.2020 passed in W.P.No.12821 of
2020.

Prayer in W.P.No.12821 of 2020:-

Writ Petition filed under Article 226 of the Constitution of
India praying for issuance of Writ of Certiorarified Mandamus,
calling for the records relating to the rejection order in
Ka.No.026(0979)/ Me.Pa.Po/ Minniyal/Nipi.1/Nivu.1/Ko.Koattu/2020
dated 27.02.2020 on the file of the 3rd respondent quash the same
and directing the respondents to appoint the son of the
petitioner namely K.Baskar in suitable post under the
compassionate appointment.



For Appellant : Mr.S.Doraiswamy

JUDGMENT

WEB COPY (Judgment was delivered by PUSHPA SATHYANARAYANA, J.)

The unsuccessful writ petitioner is the appellant herein and she laid challenge to the order of the Writ Court dated 15.09.2020 in W.P.No.12821 of 2020.

2. Since no adverse order is passed, notice to the respondents is dispensed with.

3. According to the appellant/writ petitioner, her husband one Kaliaperumal was working as Electrical Grade-II Junior Engineer in the respondents Corporation and he died on 01.11.1998, while in service; since the deceased got divorce from his first wife and the application submitted by his son born through the first wife was rejected and also the writ petitioner, being an illiterate, she asked her elder son to submit an application seeking compassionate appointment. Since the said child was not mentally well, she submitted a representation on 26.06.2018 seeking compassionate appointment to her younger son in vain, as the said request was also rejected on 27.02.2020 on the ground that the application was not made within a period of three years placing reliance on Proceedings No.46(NiKi), dated 13.10.1995. She laid challenge to the said order before the Writ Court, which was negatived in the order impugned.

4. We have heard the learned counsel for the appellant/writ petitioner and perused the materials placed on record.

5. Admittedly, the husband of the writ petitioner died on 01.11.1998 and she is the second wife of the deceased employee of the respondents Corporation and the said marriage was after obtaining divorce from the first wife. At that time, the sons of the petitioner were minors aged 9 and 6 years respectively. The application seeking compassionate appointment preferred by the son of the deceased, who born to his first wife, was rejected during 2003 on the premise that he did not possess the minimum educational qualification. The first son of the petitioner made a similar claim, but he became insane. Hence, she made the representation on 26.06.2018, rejection of which was impugned before the writ Court.

6. It is apt to refer to the order of the Full Bench of this Court dated 11.03.2020 in W.P.(MD).No.7016 of 2011, wherein, it



was held that the persons seeking compassionate appointment must make the application without any delay and the Authority also to consider the same within a reasonable time. As the compassionate appointment is deviation from the regular procedure of recruitment intended to meet the sudden crisis occurring in the family on account of the death of the breadwinner, any such application made has to be considered within a reasonable period of time. The Full Bench relied upon the judgment in Bhawani Prasad Sonkar V. Union of India & Others, (2011) 4 SCC 209, wherein, in paragraph 20(ii), it was observed as follows :

"(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time."

7. The Hon'ble Supreme Court in Indian Bank v. Promila, (2020) 2 SCC 729 held as follows :

"20. We have to keep in mind the basic principles applicable to the cases of compassionate employment i.e. succour being provided at the stage of unfortunate demise, coupled with compassionate employment not being an alternate method of public employment. Thus, looked under any Schemes, the respondents cannot claim benefit, though, as clarified aforesaid, it is only the relevant Scheme the date of demise of the employee, which could have been considered to be applicable, in view of the judgment of this Court in Canara Bank v. M. Mahesh Kumar, (2015) 7 SCC 412. It is not for the courts to substitute a Scheme or add or subtract from the terms thereof in judicial review, as has been recently emphasised by this Court in State of H.P. v. Parkash Chand, (2019) 4 SCC 285."

From the above, it is clear that the objective of the scheme is only to provide solace and succor to the family in difficult times, the relevancy is at that stage of time when the employee passes away.

8. Following the above judgments, we have taken a similar view in R.Vinoth Vs. Indian Overseas Bank, Rep. by its Chief Manager, (W.A.No.1289 of 2021, dated 15.06.2021) and there is no ground made out by the learned counsel for the writ petitioner to take a different view.

9. The writ Court also rightly considered the issue in hand and the impugned order requires no interference. Accordingly,



the Writ Appeal is dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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+1cc to Mr.S.Doraiswamy, Advocate, S.R.No.33039

W.A.No.999 of 2021

(CO)
PBS/19/08/2021