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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.21162 of 2016

Naveenkumar

...Petitioner

Vs

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation,
TANGEDCO, Anna Salai, Chennai - 2.
2. The Chief Engineer, (Personnel),
TANGEDCO, Anna Salai, Chennai - 2
3. The Superintending Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO, Gandhi Nagar, Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in Ka.No.031771/1711/Adm3/U2/Koo.Varisu Valai/2016 dated 21.01.2016 on the file of the third respondent and quash the same and consequently direct the Respondent Board to provide job assistance on compassionate ground.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.M.Fakkir Mohideen

ORDER

The writ petition has been filed to quash the proceedings in Ka.No.031771/1711/Adm3/U2/Koo.Varisu Valai/2016 dated 21.01.2016 on the file of the third respondent and consequently direct the respondent Board to provide job assistance on compassionate ground.

2.According to the petitioner, his father Ramesh Babu met with an accident and died on 07.12.2010, while he was in service. At that time, the petitioner was 14 years old. On 27.09.2012, his mother applied the job assistance on compassionate ground within years from the date of death of his



father, which was rejected on12.2012 by the second respondent on the ground that his mother was not passed 8th standard, but orally informed to apply afresh after attaining majority by the petitioner. Accordingly, the petitioner submitted application seeking compassionate appointment on 04.08.2015, which was rejected by the proceedings of the third respondent dated 21.01.2016 stating that the application was not made within a period of three years from the date of death of his father. Challenging the same, the present writ petition came to be filed by the petitioner for the aforesaid relief.

3. According to the learned counsel for the petitioner, without considering the fact that at the time of death of his father, the petitioner was a minor and he submitted the application for compassionate appointment within three years from the date of reaching majority, the third respondent passed the impugned order rejecting the said application, which is arbitrary, illegal and contrary to law and hence, the same is liable to be set aside.

4. On the other hand, the learned counsel for the respondents reiterated the averments made in the counter affidavit and submitted that the impugned order has been passed in accordance with the rules and regulations of the Board and therefore, the same does not require any interference at the hands of this Court.

5. Heard both sides and perused the materials available on record.

6. Admittedly, the father of the petitioner died on 07.12.2010, while he was in service. Though the petitioner's mother applied for job assistance on compassionate appointment, within three years from the date of death of the government servant, the same was not considered as she has not completed 8th standard. Even the application seeking compassionate appointment to the petitioner was also not considered, as he was only 14 years old at the time of death of his father. On reaching the age of majority, the petitioner made application for compassionate appointment, which was rejected by the third respondent on the ground limitation, by the order impugned herein.

7. Be it noted, the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis. However, it cannot be claimed as a matter of right and it is traceable only to the service rule permitting such appointment on compassionate basis or a scheme framed for this purpose. In *State of Haryana v. Rani Devi* [1996 (5) SCC 308], the Supreme Court was of the view that the appointment on



compassionate grounds cannot be made after a lapse of the period specified in the rules as it is not a vested right to exercise at any time in future. That apart, in Chief Commissioner, Central Excise and Customs and others v. Prabhat Singh [(2012) 13 SCC 412], it was held by the Supreme Court that "the Court should not fall prey to any sympathy syndrome of issue direction for compassionate appointment dehors prescribed norms".

8. It is also apropos to point out that the issue involved herein came up for consideration in WP.(MD)No.7016 of 2011 by way of reference to the Full Bench of this Court, which answered the same by order dated 11.03.2020, paragraph 32(a) of which is profitably extracted hereunder:

"Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the Scheme that has been framed by the employer. Any deviation from the Scheme is not permissible."

9. Paragraph 31 of the aforesaid Full Bench decision is with respect to belated submission of application, which reads as follows:

"The Hon'ble Supreme Court in Sanjay Kumar v. State of Bihar, (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application by the dependent of the deceased employee filed after he attains majority cannot be entertained. Considering a belated application will be contrary to the Scheme framed by the Government and will be also contrary to the judgments of the Supreme Court."

10. Further, in the recent G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, which supersedes all the earlier orders issued from 1972, it is clearly stated that the application seeking compassionate ground appointment should be made within a period of three years from the date of death of the government servant.

11. Therefore, applying the aforesaid legal proposition to the facts of the present case, this Court is of the view that the plea of the petitioner for compassionate appointment cannot be acceded to, as the application was made after the limitation period of three years. As such, the order impugned herein need not be interfered.



12. In the result, this writ petition fails and the same is dismissed. However, there shall be no order as to costs.

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s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

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RLD(CO)
LS(19/07/2021)