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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7947 of 2021  
(Heard through VC)

R. Arul

... Petitioner

vs

1.Tamil Nadu Generation and Distribution Corporation,  
Rep by its Chairman cum Managing Director,  
144, Anna Salai,  
Chennai - 600 002.

2.The Chief Engineer (Personnel),  
TANGEDCO,  
144, Anna Salai,  
Chennai - 600 002.

3.The Superintending Engineer,  
Kancheepuram Electricity Distribution Circle,  
TANGEDCO,  
Kancheepuram.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in connection with Ref No. Ka.No.005826/ni pi/e.ni.vu/ko.va.ve.va/2020, dated 22.12.2020 issued by the 3<sup>rd</sup> respondent and quash the same and direct the respondents to accord the job assistance under the compassionate ground as given to one Mr.Magudeeswaran in (Per) FB.TANGEDCO Proceedings No.12 dated 02.07.2012 and further direct to extend the benefit of Board Proceedings No.11 dated 11.06.2020 in favour of the petitioner.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents : Mr.Karthik Rajan

O R D E R

The writ petition has been filed, challenging the order passed by the third respondent in Ref No. Ka.No.005826/ni pi/e.ni.vu/ko.va.ve.va/2020, dated 22.12.2020. The petitioner



also sought for a consequential direction to the respondents to provide employment on compassionate ground as given to one Mr.Magudeeswaran in (Per) FB.TANGEDCO Proceedings No.12 dated 02.07.2012, with further direction to extend the benefits of Board Proceedings No.11 dated 11.06.2020 in favour of the petitioner.

2. Mr.Karthik Rajan, learned counsel takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The petitioner has challenged the order dated 22.12.2020, declining the grant of compassionate appointment on the ground that the petitioner has crossed 35 years on the date of application, which was made as early as on 01.06.2011. The case of the petitioner is that his father died while in service on 27.05.2010 and the petitioner has made an application for compassionate appointment on 01.06.2011 well within the prescribed period of three years. As the compassionate appointment was not considered, the petitioner has approached this Court by way of filing a writ petition challenging the rejection order dated 03.01.2012 and this Court, by order dated 11.10.2017 had dismissed the writ petition, declining to consider the case of the petitioner for compassionate appointment. Aggrieved by the order of the learned Single Judge, he preferred an appeal before the Division Bench of this Court and on 24.09.2019 in W.A.No.3078 of 2019, the Division Bench interfered with the order of the learned Single Judge and remanded the matter to the Authorities concerned to consider the case of the petitioner, seeking relaxation of the age in exercise of the powers under Regulations No.111 of the Tamil Nadu Electricity Board Service Regulations. The relevant paragraph is extracted below:

"10. In view of the above admission on the part of the respondents that the application for employment assistance on compassionate grounds was submitted in time and that reference has been made by the writ Court, to cases, not applicable to the facts and circumstances of the case, we deem it fit to set aside the order of the writ Court dated 11.10.2017 made in WP No.22101 of 2012, and remand the matter to the respondents-TANGEDCO, for fresh consideration. Appellant is also permitted to make a representation for relaxation of the age in exercise of the powers under Regulation No.111 of the Tamilnadu Electricity Board Service Regulations and such representation shall be made, accompanying the



order made by this Court in the instant writ appeal. We also direct the respondents-TANGEDCO, to consider the appellant's case compassionately. No Costs."

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4.1. It is further case of the petitioner that thereafter, the third respondent-Electricity Board rejected the request of the petitioner on the ground that the petitioner has crossed the age of 35 years, which was the maximum age prescribed for making an application and hence, the request of the petitioner could not be considered. According to the petitioner, the maximum age prescribed was 35 years and that the first respondent-Electricity Board has considered the request of another employee by name Magudeeswaran and has passed Board proceedings dated 02.07.2012 by relaxing the upper age limit of 35 years to that person and he was appointed as Helper (Trainee). According to the petitioner, there is a discrimination and hence, his case has got to be considered and appointment has got to be granted.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. A circumspection of the facts discloses the fact that superseding the earlier proceedings, the respondents passed yet another Resolution vide Board Proceedings No.11 dated 11.06.2020, by which, the maximum age was revised from 35 to 40 years and on the basis of the said Resolution, enhancing the upper age limit, the petitioner seeks for consideration of his case, as he was admittedly, 39 years old, when the application was made. It is no doubt true that his request must be considered based on the Proceedings dated 11.06.2020, provided he was within the age limit of 40 years, on the date of the Proceedings. But unfortunately, the petitioner crossed 40 years on the date of Board proceedings and now, he is 49 years old. Dehors the Board proceedings dated 11.06.2020, even going by the proceedings issued to one Magudeeswaran, it has been categorically stated in the order dated 02.07.2012, issued to him, as under:

"After careful consideration, the TANGEDCO is hereby approved that the employment assistance on compassionate grounds be provided to Thiru S.Magudeeswaran, S/o.(L) Thiru S.Rengasamy, Foreman by relaxing the upper age limit as a special case as per the Court order and he may be selected as Helper (Trainee), if other conditions satisfied. This will not be taken as precedent for all such cases, as this is being considered based on High Court order."



7. Thus, it is very obvious that the respondents, in the light of the judgment of the Division Bench of this Court, considered the case of the petitioner therein with regard to relaxation of the age based on the representation made by the petitioner therein.

8. In the present case on hand, the petitioner's request has been rejected and the petitioner is now 49 years old. If the subsequent Board proceedings is applied to the case of the petitioner, he is over aged and if the new Board proceedings is completely ignored, the petitioner has already completed 35 years of age as per the earlier proceeding. It is to be noted that the concession given to another employee cannot be treated as a matter of right and it cannot be stated that there is a discrimination. Therefore, I find that the order of the respondents in rejecting the claim of the petitioner for compassionate appointment is perfectly valid and this Court is not inclined to grant the relief sought for by the petitioner.

9. Accordingly, finding no merits in the writ petition, the same is dismissed. No costs.

Sd/-

Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

rsi

To

1.Tamil Nadu Generation and Distribution Corporation,  
Rep. By its Chairman cum Managing Director,  
144, Anna Salai,  
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144, Anna Salai,  
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3.The Superintending Engineer,  
Kancheepuram Electricity Distribution Circle,  
TANGEDCO,  
Kancheepuram.

+1cc to Mr.K.Krishnamoorthy, Advocate SR.No.20324

W.P.No.7947 of 2021

GPL(CO)

RVM(20/07/2021)