



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15548 of 2020
and
W.M.P.No.19767 of 2020
(Heard through VC)

S.Akilandeswari

.. Petitioner

-vs-

1. The Chairman,
The Tamil Nadu Generation and
Distribution Corporation,
TANGEDCO,
Anna Salai,
Chennai - 600 002.
2. The Chief Engineer Personnel,
TANGEDCO,
Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Mettur Electricity Distribution,
Circle TANGEDCO,
Mettur Dam-1,
Salem District.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in Letter No.017336/541/Ni.Pi.1/U.3/Koo. Va. Ve./2019 dated 04.11.2019 by the 3rd respondent and quash the same and consequently for a direction to direct the respondent Board to provide job assistance to petitioner on compassionate ground and to disbursement of death cum terminal and pay family pension.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.Karthik Rajan



O R D E R

The petitioner has come forward with this writ petition to quash the order passed by the third respondent in Letter No.017336/541/Ni.Pi.1/U.3/Koo. Va. Ve./2019 dated 04.11.2019 and consequently for a direction to direct the respondents-Board to provide job assistance to her on compassionate ground and to disbursement of death cum terminal and pay family pension.

2. The learned counsel for the petitioner submitted that the petitioner's husband was employed as a Casual Contract Labourer in the respondents-Board and rendered services from 11.03.2008 to 28.07.2010. However, similarly placed persons have been regularized and the benefit of permanent status have been extended to them. The learned counsel further submitted that the petitioner's case is also supported by the judgment of the Hon'ble Division Bench of this Court dated 03.08.2012 (R.Lakshmi vs. The Chief Engineer (Personnel) and another) made in W.P.No.5980 of 2004.

3. According to the petitioner, her husband had completed 480 days in a 24 calendar month and that there was a settlement between the Management and the Union. The petitioner's husband is deemed to have attained the permanent status, but, unfortunately he died on 31.07.2010 and the petitioner, being the wife of Late Muthu, sent a representation for compassionate appointment on 16.10.2017. The said application has been forwarded by the third respondent to the second respondent vide communication dated 21.04.2018 and subsequently, based on the letter of the second respondent dated 23.10.2019, the request of the petitioner has been rejected by the third respondent vide impugned order dated 04.11.2019 stating that the petitioner has made the application dated 16.10.2017 belatedly and that the question of considering the case of the petitioner for compassionate appointment does not arise at all, as the petitioner's husband worked only as a contract labourer.

4. Mr.Karthik Rajan, learned counsel appearing for the respondent-Board would submit that though the representation dated 16.10.2017 has been referred to in the communication of the third respondent dated 21.04.2018, it cannot be denied that the representation dated 16.10.2010 is also found mentioned in the body of the letter. A perusal of both the documents presented by the petitioner in the original typed set of papers and additional typed set of papers reveals the fact that both are one and the same. The petitioner in the additional typed set of papers submitted that the request of compassionate



appointment has been made as early as on 16.10.2010 itself to the respondents by certificate of posting, which has been referred to in the communication dated 21.04.2018 and that yet another representation dated 16.10.2017 was forwarded to the respondents, which has been considered and the request of the petitioner has been rejected by the impugned order dated 04.11.2019.

5. The third respondent has filed a counter affidavit stating that the petitioner's husband was employed on 11.03.2009 as Contract Labourer and that he died on 31.07.2010 prior to the confirmation as permanent worker as Mazdoor or other category and hence, he cannot be considered as permanent worker. He has also referred to the (Per.) FB TANGEDCO Proceedings No.11, dated 11.06.2020, which reads as follows:

"02. Persons whose Legal heirs are not eligible for consideration under Compassionate Ground Appointment:

(ii) Persons who are under Temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularized including part time conservancy workers."

6. According to the respondents, the petitioner, being a Temporary Casual Labourer, will not be entitled to appointment on compassionate ground, on account of the demise of her late husband. Since this Court has already considered the grant of permanent status to the Contract Labourers and the Division Bench judgment of this Court dated 03.08.2012 is squarely applicable to the facts of this case, on technical aspects, the case of the petitioner cannot be deprived. It is no doubt true that there are catena of judgment of the Apex Court that the compassionate appointment has got to be considered as an exception and it cannot be demanded as a matter of right to get an entry into public employment.

7. I had an occasion to consider the batch of cases even with regard to the Electricity Board in W.P(MD).Nos.4129, 7045, 16624 and 20786 of 2014 and W.P(MD).Nos.19455 and 19530 of 2018 dated 24.09.2018, pursuant to which, the Government has also issued a Government Order issuing guidelines with regard to considering the case of persons, who are seeking compassionate appointment. Since the issue is covered by the Division Bench



judgment of this Court (supra), the request of the petitioner needs to be considered and in case the petitioner fulfills all other criteria for appointment in Class-IV employment, the case of the petitioner can be considered. Upon production of necessary documents to show that the petitioner is the legally wedded wife of the deceased employee and legal-heir and that there are no rival claims, it is open to the respondents to consider the case of the petitioner for granting terminal benefits.

8. Following the judgment of the Hon'ble Division Bench of this Court dated 03.08.2012 in the given peculiar circumstances of the case, this writ petition is allowed and the impugned order dated 04.11.2019 is set aside, with a direction to the third respondent to consider the case of the petitioner and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order, if there are no legal impediments, and communicate the same to the petitioner within a period of three weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Chairman,
The Tamil Nadu Generation and
Distribution Corporation,
TANGEDCO,
Anna Salai,
Chennai - 600 002.
2. The Chief Engineer Personnel,
TANGEDCO,
Anna Salai,
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PCH (CO)
HS (15/07/2021)