

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31399 of 2014 and
M.P.No.1 of 2014

K.Dharmalingam

...Petitioner

Vs.

1. The Chairman and Managing Director,
Tamilnadu Electricity Board,
No.800, Annasalai, Chennai-600 002.
2. The Superintending Engineer,
Tamilnadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.
3. The Additional Chief Engineer,
Tamilnadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.
4. The Assistant Engineer,
Tamilnadu Electricity Board,
Ingoor Perunthurai Division,
Erode District.
5. The Secretary,
Personal and Administrative Reforms Department,
Secretariat, Chennai.
6. The Secretary, Labour and Employment Department,
Secretariat, Chennai.

(R5 and R6 are suo motu impleaded vide order dated
16.04.2019,
made in WP No.31399 of 2014.)

...Respondent

Prayer: Writ petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified Mandamus
or any other appropriate writ or order directing the nature of
writ to call for the records in pursuant to the impugned order

passed by the 2nd respondent herein in his proceedings Lt.No.009030/435/Ni-P2(1)/2012-2 dated 04.01.2014 and quash the same and consequently direct the respondents to appoint the petitioner on compassionate appointment under the respondents.

For Petitioner : Mr.R.Thirumoorthy
For Respondents : Mr.Karthick Rajan for TNEB
for R1 to R4
Mr.Manohar, AGP
for R5 and R6

O R D E R

This writ petition has been filed by the petitioner to quash the order passed by the 2nd respondent herein in his proceedings Lt.No.009030/435/Ni-P2(1)/2012-2 dated 04.01.2014 and consequently direct the respondents to appoint the petitioner on compassionate ground under the respondents.

2. According to the petitioner, his father Mr.A.Kumarasamy had been worked under the respondents Board as a lineman for more than 15 years and he died on duty on 03.06.2009 leaving behind the petitioner and his family members. Thereafter, the petitioner filed an application seeking appointment under compassionate ground on 03.05.2012, however, the second respondent rejected the claim of the petitioner. Hence, this writ petition.

3. A perusal of the records shows that the application filed by the writ petitioner seeking appointment on compassionate ground was received by respondents Board on 28.04.2014. The mother of the petitioner namely Kaliasammal has also submitted a letter to the Authority stating no objection for appointing his son on compassionate ground. Thereafter, the respondent Board has informed the petitioner to submit the application in a proper format along with the necessary documents. Accordingly the application was re-submitted by the petitioner on 14.09.2012 along with the necessary documents. Pursuant to the communication sent by the fourth respondent, the application of the petitioner was considered by the 2nd respondent and finally the claim of the petitioner was rejected vide order dated 04.01.2014 stating that the petitioner has not filed his application within a period of three years from the date of death of his father. Challenging the above order, the writ petition is before this court.

4. The learned counsel appearing for the petitioner submitted that the application seeking appointment on compassionate ground was filed by the petitioner within three years from the date of death of his father, however, he had not

submitted the application in a proper formate along with necessary documents and therefore, there is no delay in filing the application. He further submitted that on the date of filing the application, the petitioner was at the age of 17 years. But, at the time of considering the application by the respondent Board, he attained majority and he was eligible for appointment and this aspect was not considered by the respondent Board.

5. The learned Special Government Pleader appearing for the fourth and fifth respondents submitted that pursuant to the order passed by this court dated 29.04.2019, the Government has passed comprehensive guidelines for appointment on compassionate grounds in G.O.Ms.No.18 Labour and Employment (1) Department dated 23.01.2020 and he has also filed the above Government Order in compliance of the order passed by this court. According to him, the above comprehensive guidelines will apply to the case of the respondent Board.

6. The learned counsel appearing for the respondent Board submitted that the petitioner has filed his application for appointment on compassionate ground beyond three years and therefore, the respondent Board has rightly rejected the claim of the petitioner. He further submitted that on the date of submitting the application, the petitioner was only 17 years old and he had not completed 18 years and hence, he was not eligible for appointment.

7. Heard the learned counsels appearing for the parties and I have perused the materials on record.

8. The respondent Board has produced the original records before this court. On perusal of the records shows that the application seeking for appointment on compassionate ground was submitted by the petitioner and the same was received by the respondents Board on 28.04.2012. Thereafter, the Board by letter dated 12.05.2012, directed the petitioner to submit the application in a proper formate and to furnish the relevant documents. Accordingly, the petitioner had filed his application in a proper formate along with necessary documents on 14.09.2012 and the same was received by the respondent Board. Thereafter, the respondent Board had rejected the claim of the petitioner by the order dated 19.10.2012. Again the petitioner had filed another application to consider his appointment under compassionate ground and the same was received by the Board on 02.12.2013. In pursuant to that application, the respondent Board has passed the impugned order dated 04.01.2014 by rejecting the claim of the petitioner.

9. The respondent Board rejected the claim of the petitioner mainly on the ground that the application was not filed within three years from the date of death of the father of the petitioner and that on the date of filing the application, the petitioner was not completed the age of 18 years. But on perusal of the original records, it reveals that the application sent by the petitioner was received on 12.04.2012 itself, i.e. within three years from the date of death of his father on 03.06.2009 and hence, it is clear that the application is not barred by limitation. In so far as the merits of the application is concerned, the respondent Board has to consider the application afresh in accordance with the guidelines issued by the Government and pass orders. Further, this court feels that at the time of filing the application, the petitioner was aged 17 years and at the time of rejecting the claim of petitioner by the respondent Board, he attained majority and he was eligible for appointment on compassionate ground. While considering the application afresh, the respondent Board has to take note of this fact and pass final order.

10. In the light of the above discussion, the impugned order passed by the second respondent Board is quashed and the matter is remitted back to the second respondent to consider the application filed by the petitioner afresh and pass orders, within 12 weeks from the date of receipt of a copy of this order.

11. With the above direction, this writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mst
To

1. The Chairman and Managing Director,
Tamilnadu Electricity Board,
No.800, Annasalai, Chennai-600 002.
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 5. The Secretary,
Personal and Administrative Reforms Department,
Secretariat, Chennai.
 6. The Secretary, Labour and Employment Department,
Secretariat, Chennai.
- +1 CC to M/s. R. Thirumoorthy, Advocate sr 308.

W.P.31399 of 2014 and
M.P.No.1 of 2014

RP(CO)
SP(05/02/2021)



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