



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.22979 of 2021

(Through Video Conferencing)

M.Sudhakar

...Petitioner

Vs.

The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Tamil Nadu Generation and

Distribution Corporation (TANGEDCO),
Krishnagiri District - 635 001.

...Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in Letter No.00639/58/Ni.Pil/Wn3/Compassionate Appointment (General)/2020 dated 24.03.2020 and quash the same and consequently direct the respondent to provide a suitable post to the petitioner on compassionate ground.

For Petitioner : Mr.V.V.Bharathy
for Mr.P.Madasamy

For Respondent : Mr.P.Subramaniam
Standing Counsel

ORDER

Mr.P.Subramaniam, learned standing counsel takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned rejection order dated 24.03.2020 of the respondent. By the impugned order, the respondent has rejected the request of the petitioner for being appointed on compassionate grounds on the ground that the application was filed only on 20.01.2020 whereas the petitioner's father who was working as Wireman with the respondent Board/Corporation died on 08.01.2015 and thus the application was filed beyond three years period prescribed in the Board/Corporation proceedings referred in the impugned order.



3. The learned counsel for the petitioner submits that the petitioner was aged about 13 years at the time of death of his father on 08.01.2015 and had attained the age of majority only on 04.11.2019. It is submitted that an application was filed by his mother on 19.07.2017 and that the said application was rejected by a communication dated 04.08.2017 stating that the petitioner had not attained the age of majority.

4. Appearing on behalf of the respondent, the learned standing counsel submits that on the date of fresh application/representation is 20.01.2020 and the three years limitation prescribed under the Board/Corporation proceedings had already expired. It is further submitted that the original application was filed by the petitioner's mother on 19.07.2017. At that time, the petitioner had not attained the age of majority and therefore the case of the petitioner could not be considered. It is submitted that no appointment can be made in deviation of the Board/Corporation proceedings referred to the impugned order and therefore the request of the petitioner for being appointed on compassionate grounds was correctly rejected.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the respondent.

6. The beneficial scheme for appointing the dependants of the deceased Employee on compassionate grounds is intended to give succour to the family which faces hardship on account of the sudden death of the sole breadwinner. In the present case, the dependants of the deceased were not in a position to apply immediately as they were underaged. The respondents also could not have appointed the petitioner due to the aforesaid restrictions under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and under the Constitution of India.

7. Ultimately, the only criteria to be examined is whether the family is in indigent circumstances and whether the appointment on compassionate grounds can be in a given fact situation. In this case, the petitioner was merely 13 years at the time of the death of his father and had attained the age of majority on 04.11.2019. Thereafter, a fresh application/representation was given by the petitioner on 20.01.2020. Ultimately, the respondent has to examine whether the family was in indigent circumstances and whether it continue to be in indigent circumstances when the application was filed on 20.01.2020 or not. The petitioner has also not sought for any higher post. He has merely completed 10th standard. It indicates that the family has not been able to educate the petitioner.



8. Therefore, this is a fit case for interfering with the impugned order by directing the respondent to reconsider the request of the petitioner for employing the petitioner suitably on compassionate grounds based on the qualification subject to other criteria being satisfied that the family is still in indigent circumstances.

9. The respondent shall enquire and thereafter come to a conclusion that the petitioner's family is in indigent circumstances or not. If so, the petitioner may be appointed suitably based on the qualification he possess on the date of application/representation dated 20.01.2020. This exercise shall be carried out by the respondent within a period of twelve weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands allowed with the above observations and directions. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation (TANGEDCO),
Krishnagiri District - 635 001.

+1cc to M/s.P.Madasamy, Advocate, S.R.No.55202

+1cc to M/s.P.Subramanian, Advocate, S.R.No.55245

W.P.No.22979 of 2021

CP(CO)
RVM(26/11/2021)