



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NO.769 OF 2021

and

C.M.P(MD)No.3457 of 2021

Saheel Aqthar

:Appellant/Petitioner

.vs.

1.The Chief Engineer(Personnel),
Tamil Nadu Generation and
Distribution Corporation Limited,
TANGEDCO,
144, Anna Salai,
Chennai-2.

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.22676 of 2017, dated 20.1.2021.

Prayer in WP(MD). 22676/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings issued by the 1st respondent in his letter No.106759/476/G8/G82/2012-2 dated 3.1.2013 and consequential proceedings issued by the 2nd respondent in his letter No. 011118/232/Me Po/Ma Mi Pa Va/Madu Ni.A/Ni.Ma/Ni Pi.3/Vu 4/A.Ka comp./2017 dated 16.9.2017 and quash the same and consequently direct the respondents to appoint the petitioner in any suitable job on the basis of the application submitted by the petitioner under the compassionate grounds.

For Appellant

:Mr.G.Kannan

for M/s.S.Veera Associates

For Respondent

:T.Sakthi Kumaran,

Stanading Counsel

**JUDGMENT**

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

This Writ Appeal has been preferred against the judgment of the learned Single Judge declining to interfere with the impugned order refusing to grant appointment on compassionate grounds to the Petitioner/appellant.

2. Heard the learned counsel for the appellant and perused the materials placed before this Court.

3. Admittedly, the father of the appellant died on 4.1.2010, by which time, the appellant was 11 years old and a minor. However, the mother of the appellant had made an application for compassionate appointment on behalf of the minor on 3.12.2012 which was rejected on 3.1.2013. Thereafter, on 5.7.2017, when the appellant attains majority, he made an application once again for appointment on compassionate grounds on 16.09.2017. This application was rejected, as the application ought to have been made within three years from the date of death of the Government servant. In this case, thought he had applied for, through his mother within a period of three years, he was not qualified for employment. Being compassionate appointment, it is always open to the mother of the appellant who was on that date qualified to take up the employment. However, that had not been done so in this case.

4. The learned Single Judge had referred to the judgment in **W.A.No.3899 of 2019 in the case of Poongodi .vs. The Chairman, Electricity Board**, wherein, it is stated that the minimum age is 18 years and a minor cannot be appointed into the Government Service. The complaint of the appellant is that none of the orders referred to in the case of minors, when the cause of action arises during their minority. We failed to understand that compassionate appointment as contemplated, is only a succor to the family which is in penury, which had lost its sole bread winner. It has been well settled that appointment on compassionate grounds is an offer to a dependant of the deceased employee, as an exception of the usual norms. The compassionate appointment cannot be claimed as a matter of right, as it has no vested right. It is also open to the employer to modify the scheme depending on the policies that they follow.

5. At this juncture, it is pertinent to advert to the decision of the Honourable Apex Court in the case of **N.C.Santhosh .vs. State of Karnataka and others reported in (2020) 7 Supreme Court Cases 617**, in which. it has been held as follows:

'19. Applying the law governing compassionate appointment culled out from the above cited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependant of a



government employee, in the absence of any vested right accruing on the demand consideration of his/her application. He is, however, dis-entitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee.''

6.It is not in dispute that in the State of Tamil Nadu also G.O.Ms.No.18, Labour and Employment(Q1) Department, dated 23.1.2020 was issued giving comprehensive guidelines on compassionate appointment. The said Government Order prescribes that an application for compassionate appointment may be submitted within three years from the date of death of the Government Servant and on the date of application, the applicant should complete the minimum age of 18 years and the maximum age limit for the spouse/father/mother is 50 years on the date of death of the Government Servant. The maximum age limit for the son or daughter of the deceased Government Servant and unmarried brother/unmarried sister of the unmarried deceased Government Servant is 40 years at the time of applying. Advertently, in this case, on the date of death of the employee, the appellant was a minor and though he had made an application through his mother, he did not have the required qualification namely, completion of 18 years. Therefore, it was rightly rejected and for the second time, which is time barred, cannot be entertained and it is rightly rejected by the authorities and confirmed by the learned Single Judge. This Court finds no infirmity in the order of the learned Single Judge and accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Chief Engineer(Personnel),
Tamil Nadu Generation and
Distribution Corporation Limited,
TANGEDCO,
144, Anna Salai,
Chennai-2.



2.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-15187[F] dated
01/04/2021)

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-15241[F] dated
01/04/2021)

W.A(MD) NO.769 OF 2021
and
C.M.P (MD) No.3457 of 2021
01.04.2021

KUN(CO)
KB(27.04.2021) 4P 5C