



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

WP(MD) No. 9794 of 2020

WEB COPY

K.Kannan

... Petitioner

Vs.

1. The Chief Engineer(Personnel),
TANGEDCO,
Annasalai, Chennai.

2. The Superindenting Engineer,
Tanjavur Electric Distribution Circle,
No.1, Vallam Road,
Tanjavur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to quash the order of the second respondent rejecting the application of the Petitioner seeking compassionate appointment, passed in Ka.No.10916/Ni.Pi.3/Ni.Uh.2/Ko.Va.Ve/2019, dated 14.11.2019.

For Petitioner : Mr. N.Sundaresan.

For Respondents : Mr. T.Sakthikumaran
standing counsel.

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order of the second respondent, rejecting the application of the petitioner seeking compassionate appointment, passed in Ka.No.10916/Ni.Pi.3 / Ni.Uh.2 /Ko.Va.Ve/2019, dated 14.11.2019.

2. The case of the petitioner is that his father was working as Foreman, Grade-I in the Tamil Nadu Generation and Distribution Corporation Ltd., and he died on 16.06.2007, while he was in service. Thereafter, the petitioner submitted an application seeking compassionate appointment. The said application was rejected by the second respondent on 16.06.2010, for the reason that the petitioner has not completed the age of 18 years on the date of submitting the application. After attaining the majority, he submitted a fresh application. The said application was also rejected on 27.10.2016, reiterating the

<https://www.secreports.gov.in/secreports>



years. Thereafter, once again, the petitioner submitted an application on 24.12.2018, seeking compassionate appointment. The said application was also rejected by the second respondent, by the impugned order dated 14.11.2019, on the ground that the petitioner has not completed the age of 18 years within the period of three years from the date of death of the deceased employee. Challenging the said order, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that while passing the impugned order, the second respondent has failed to consider that the petitioner has submitted his first application for compassionate appointment within three years from the date of death of his father. The learned counsel further submitted that since the petitioner's family is in indigent circumstances after the death of the sole breadwinner, the petitioner's case may be considered for compassionate appointment.

4. The learned Standing Counsel appearing for the respondents Electricity Board submitted that as per the proceedings of the Electricity Board, the time limit to prefer application for compassionate appointment is three years from the date of death of the employee. But, the petitioner herein submitted application after a lapse of 11 years and hence, the respondent has rightly rejected the petitioner's application for compassionate appointment.

5. I have anxiously considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. Identical issue came up before the Honourable Division Bench of this Court in W.A.No.1749 of 2019 (**Sudhanthira Devi vs. The State of Tamil Nadu and others**) [in the said Judgment, myself (DKKJ) is one of the member] and the Division Bench, by Judgment dated 03.09.2019, following the decisions of the Honourable Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

7. In **Government of India and another v. P.Venkatesh [(2019) 15 SCC 613]**, the Honourable Supreme Court has held as follows:

"8. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal

<https://hcservices.ecourts.gov.in/hcservices/> of cases in overburdened adjudicatory



institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.

9. ...

10. Bearing in mind the above principles, this Court held: (Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

8. The Honourable Full Bench in Paragraph No.13 of the Judgment dated 11.03.2020 in W.P. (MD) No.7016 of 2011 has held as follows:

"13. In the light of the above we find that the judgment in the case of A.Kamatchi v. The Chairman, Tamil Nadu Electricity Board, (2013) 2 CWC 758 is not only contrary to the law laid down in the case of E.Ramasamy v. The Chairman, Tamil Nadu Electricity Board, (2006) 4 MLJ 1080, but it also has, as indicated by our brother, Justice Subramonium Prasad, in his judgment, misconstrued the same. In view of what has been indicated above we are also of the view that the period of three years is a rationale and reasonable period under the relevant Government Orders and the rules. We may, however, observe that it is open to the State Government to make any provision for relaxation of the period in exceptionally rare cases on the principles as indicated herein



9. In the case on hand, admittedly, the petitioner's applications have been rejected by the second respondent on two occasions viz., on 16.06.2010 and 27.10.2016. However, the petitioner without challenging aforesaid earlier orders, has filed the present writ petition challenging only the recent impugned rejection order dated 14.11.2019. Further, the delay in seeking compassionate appointment, after a lapse of 14 years cannot be considered in the light of the decision of Hon'ble Supreme Court in the case of **P.Venkatesh (cited supra)**. Therefore, the impugned order does not warrant any interference of this Court.

10. In fine, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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),
TANGEDCO,
Annasalai, Chennai.
2. The Superintending Engineer,
Tanjavur Electric Distribution Circle,
No.1, Vallam Road,
Tanjavur.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-27824[F] dated 01/09/2021)
+1 CC to M/s.N.SUNDARESAN, Advocate (SR-27736[F] dated 01/09/2021)

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