



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.14829 of 2018

WEB COPY
S. Revathi

... Petitioner

Vs.

1. The Chairman/Managing Director,
Tamilnadu Generation and Distribution,
Corporation Ltd., No.800, Annasalai,
Chennai - 2

2. The Chief Engineer Personnel,
Tamilnadu Generation and Distribution,
Corporation Ltd, No.800, Annasalai,
Chennai -2.

3. The Superintending Engineer,
Tamilnadu Electricity Board,
Protection and Communication Wing,
P.P. Colony, Madurai -7.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the third respondent dated 22.12.2017 bearing Letter No.MaPo.KakaaThaTho/Mathu/SayU/Neer/Uthavi/Ka.Varisu/ANo./17 and quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate grounds based on her qualification.

For Petitioner : Mr. R. Saravanan
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 dated 22.12.2017, passed by the third respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. According to the petitioner, her father was working as Assistant Carrier Mechanic and he died on 04.10.1988, while he was in service. After the death of petitioner's father, her mother has submitted several applications seeking compassionate appointment, the said applications were rejected by the authority on the ground



that the certificates produced by her were bogus. Thereafter, on attaining majority and completing her education, the petitioner has submitted a representation on 27.03.2013 seeking compassionate appointment. While being so, petitioner's mother submitted an application on 27.08.2017 seeking compassionate appointment for her daughter, the said application was rejected by the third respondent on 22.12.2017 on the ground that the said application was not submitted within the prescribed period of three years from the date of death of the petitioner's father and she was a minor at the relevant time. Hence, the present Writ Petition.

1. A Counter has been filed by the respondents. In the counter affidavit, it is stated that petitioner's mother has not submitted any application seeking appointment under compassionate ground for her minor daughter. The petitioner's mother has submitted an application only on 27.08.2017 seeking compassionate appointment for her daughter and the same was rejected by Superintending Engineer/Protection and Communication/Madurai dated 22.12.2017, when the petitioner's mother came to know about the said rejection order, she submitted a fresh application dated 26.02.2018. According to the third respondent, at this stage there is no indigent circumstances to the family, therefore the said claim cannot be considered after a lapse of nearly 30 years, after the death of the deceased father. Therefore the rejection order passed by the third respondent is correct.

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

5. 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.

6. 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 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."

Judgment 7. The Honourable Full Bench in Paragraph No.13 of the **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 above."

8. Furthermore, the proceedings of the respondent Electricity Board in (Per.) FB TANGEDCO Proceedings No.11, dated
<https://hcservices.ecourts.gov.in/hcservices/>



11.06.2020, has clearly prescribed the time limit to prefer application for compassionate appointment as three years from the date of death of the Government servants.

9. In the case on hand, admittedly, the petitioner's father died on 04.10.1988 and the petitioner's mother has submitted the application for compassionate appointment only on 27.08.2017, nearly after a lapse of thirty years. Therefore, in view of the above settled legal position, the claim of the petitioner made beyond the prescribed period of three years cannot be entertained and it deserves to be rejected. Accordingly, the impugned order does not warrant any interference of this Court.

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

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

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Protection and Communication Wing,
P.P. Colony, Madurai -7.

+1 CC to M/s.T.SAKTHI MUMARAN, Advocate (SR-25311[F] dated 05/08/2021)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-25320[F] dated 05/08/2021)

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RD(26.08.2021) 4P 6C