



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

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**THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR**

W.P. (MD) No.2249 of 2018 and

WMP (MD) .No.2460 of 2018

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Arulanandam

... Petitioner

Vs.

1.The Chairman,  
TANGEDCO,  
Chennai.

2.The Superintending Engineer,  
TANGEDCO Trichy Electricity Distribution Circle,  
Perunagaram,  
Trichy - 20.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2<sup>nd</sup> respondent in Letter No.273/NiPil/ENiU/KoVaVe/2016 dated 25.06.2016 in rejecting the application for compassionate appointment and quash the same and further direct the respondents to provide him employment on compassionate grounds.

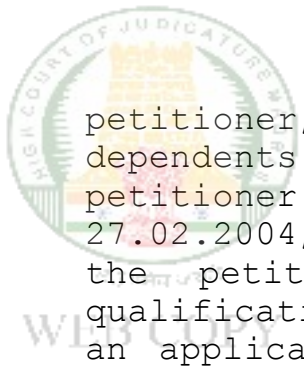
For Petitioner : Mr.D. Selvaraj  
For Respondents : Mr.T. Sakthikumaran  
Standing Counsel

### **O R D E R**

This Writ Petition has been filed, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2<sup>nd</sup> respondent in Letter No.273/NiPil/ENiU/KoVaVe/2016 dated 25.06.2016 in rejecting the application for compassionate appointment and quash the same and further direct the respondents to provide him employment on compassionate grounds.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. According to the petitioner, his father, Stephen Anthony Raj, who was employed under the respondents, as Electricity Lineman, died in harness on 28.10.2001 leaving behind the writ



petitioner, his daughter, his wife and his mother, who are all dependents of their father. After his father's demise, the petitioner's mother applied for compassionate appointment on 27.02.2004, which was rejected on the ground that the mother of the petitioner did not possess the required 8th standard qualification and even after getting qualification, later she made an application on 01.03.2005, which came to be rejected on the ground that she did not possess qualification within 3 year limitation period from the date of death of the deceased employee. Thereafter, on attaining the age of majority, the petitioner applied on 19.02.2019 for compassionate appointment, which was rejected by the 2nd respondent in view of the Board Standing Order 17 dated 01.11.2011. Later again, the petitioner made a representation on 13.06.2016 based on the similar order of this Court, which also came to be rejected by the 2nd respondent vide proceedings dated 25.06.2016 on the ground that it was not within the prescribed time limit. Challenging the same, the petitioner has filed the present Writ Petition.

4. In fact, the very scheme of providing compassionate appointment is to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread winner, who had left the family in penury and without any means of livelihood. In the present case, first application made by the petitioner's mother was rejected on the ground that she was not having requisite educational qualification and even after obtaining educational qualification also, her second application was rejected on the ground that she did not possess requisite qualification within 3 year limitation period. But the petitioner's mother has not challenged the said orders. Later, on attaining the age of majority, the petitioner has come forward with the present writ petition. Admittedly, when the first application made by the mother of the petitioner on 27.02.2004, the petitioner was a minor and was not eligible for appointment. After a period of nearly 14 years, the petitioner claims appointment on compassionate grounds. There cannot be reservation of a vacancy till such time, as the petitioner becomes a major, after a number of years, unless there is some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief. In this regard, it is worthwhile to refer to a decision reported in "**State of Manipur vs. Md. Rajaodin**" {(2003) 7 SCC 511}, wherein the Hon'ble Supreme Court, in paragraph 11 of its judgment, held as under:-

"In Smt. Sushma Gosain and others vs. Union of India and others (1989 (4) SCC 468) it was observed that in all claims of appointments on compassionate grounds, there should not be any delay in appointment.

The purpose of providing appointment on compassionate



ground is to mitigate the hardship due to death of the bread-earner in the family. Such appointments should, therefore, be provided immediately to redeem the family in distress. The fact that the ward was a minor at the time of death of his father is no ground, unless the scheme itself envisage specifically otherwise, to state that as and when such minor becomes a major he can be appointed without any time consciousness or limit. The above view was re-iterated in Phoolwati (Smt.) vs. Union of India and others (1991) Supp. (2) SCC 689) and Union of India and others vs. Bhagwan Singh (1995 (6) SCC 476). In Director of Education (Secondary) and Anr. vs. Pushpendra Kumar and others (1998 (5) SCC 192) it was observed that in matter of compassionate appointment there cannot be insistence for a particular post. Out of purely humanitarian consideration and having regard to the fact that unless some source of livelihood is provided the family would not be able to make both ends, meet, provisions are made for giving appointment to one of the dependents of the deceased who may be eligible for appointment. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions it cannot substitute the provision to which it is an exception and there nullity the main provision by taking away completely the right conferred by the main provision."

5. Therefore, the scheme of providing compassionate appointment can be extended only to eligible member of the family and not to an ineligible person. Scheme has not been framed to provide employment assistance as and when the son or daughter of the deceased employee attains majority. Under the scheme, the Department is not obligated to keep any post vacant, till the applicant attains majority or to consider his candidature on attaining majority. Scheme only enables those who are eligible and satisfy all the eligibility criteria including age, within three years from the date of death.

6. For the foregoing reasons, this Court is of the view that



the petitioner has not made out a case for consideration of his claim for compassionate appointment. Accordingly, the Writ Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Chairman,  
TANGEDCO,  
Chennai.

2.The Superintending Engineer,  
TANGEDCO Trichy Electricity Distributio Circle,  
Perunagaram,  
Trichy - 20.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate ( SR-26702[F] dated 18/08/2021 )

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WMP (MD) .No.2460 of 2018  
17.08.2021

PS (CO)  
SB(01.09.2021) 4P 4C