



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.8456 of 2018

A.Mariamammal

... Petitioner

Vs.

The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the records of the impugned order of the respondent in letter No.030133/614/Ni.P.3/U.3/Ko.Vaa.Ve/13 dated 13.11.2013 and quash the same and consequently direct the respondent to provide the petitioner employment on compassionate ground within the time fixed by this Court.

For Petitioner	:	Mr.H.Arumugam
For Respondent	:	Mr.J.Sakthi Kumaran 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 13.11.2013, passed by the respondent and to direct the respondent to consider the case of the petitioner for appointment on compassionate grounds.

2.The case of the writ petitioner is that the petitioner's father was working as Helper in the Tamilnadu Electricity Board in Valliyoor Division and her father died while he was in service due to employment duty electric shock on 18.10.1991. Her father died leaving behind her, her mother and her sister. The Writ Petitioner is daughter of the deceased employee. The petitioner was minor at the time of death of her father. After attaining majority, she has submitted an application on 11.11.2013 to the respondent requesting to provide her employment on compassionate ground but the respondent rejected the claim of the petitioner by stating that the her father died on 18.10.1991 and the application submitted to the respondent was after a lapse of nearly 22 years and also the said application was not submitted to the respondent within the period of three years as per the board proceedings.

3.According to the petitioner, the aforesaid reason is irrational and the object of the compassionate appointment will be



defeated and the right of the petitioner will be deprived in view of the said order passed by the respondent. Therefore the aforesaid order is liable to be set aside.

4.The learned Standing counsel appearing for the respondent board would submit that the petitioner has submitted the application for compassionate ground after 22 years. The application should be submitted within 3 years from the date of death of the employee. Based on the aforesaid proceedings, the respondent has rightly rejected the claim of the petitioner. Further the learned Standing Counsel for the respondent would submit that the said period for submitting the application has been elaborately discussed by this Court as well as by the Hon'ble Supreme Court.

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 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



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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 above."

9.Furthermore, the proceedings of the respondent Electricity Board in (Per.) FB TANGEDCO Proceedings No.11, dated 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.

10.In the case on hand, admittedly, the petitioner's father died on 18.10.1991 and the petitioner submitted application for compassionate appointment only on 11.11.2013, nearly after 22 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.



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

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-25543[F] dated 06/08/2021)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-25553[F] dated 06/08/2021)

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RS (26.08.2021) 4P 4C