



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

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**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL**

W.A(MD)No.507 of 2014

Adisayakani

... Appellant/Petitioner

Vs.

1.The Chief Engineer,
Tamilnadu Electricity Board,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Distribution,
Tamilnadu Electricity Board,
Tirunelveli Division,
Tirunelveli.

3.The Supervisory Engineer,
Tamilnadu Electricity Board,
Tirunelveli Division,
Tirunelveli.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 19.10.2010 made in W.P(MD)No.6033 of 2010.

Prayer in WP(MD). 6033 of 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of WRIT OF CERTIORARIFIED MANDAMUS call for the records of the 1st respondent in Ka.No. 055937/376/G9/G91/2009-2, dated 06.12.2009 and quash the same and direct the respondents to give the petitioner son an employment on compassionate ground on the death of the petitioner's husband.

For Appellant : Mr.M.S.Jeyakarthick

For Respondents : Mr.T.Sakthikumaran,
Standing Counsel

**JUDGMENT**

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order 19.10.2010 made in W.P(MD)No.6033 of 2010.

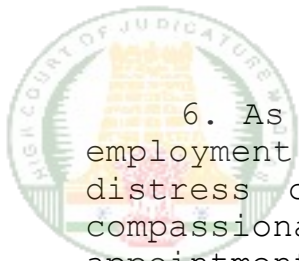
2.The brief facts of the case are as follows:

The appellant who is the wife of late.Utchimakali was the petitioner in the writ petition filed challenging the order passed by the first respondent, dated 06.12.2009, rejecting the application to give a compassionate appointment to her on the death of her husband. The husband of appellant was working as a Commercial Supervisor in the Tamilnadu Electricity Board and he died on 09.02.2003 leaving behind his wife, daughter, four sons and mother. It appears that the appellant wife had applied immediately within three years for an appointment on compassionate ground. For the said application, the second respondent had sent a reply in letter No.40076/NP.2/2003 dated 04.02.2004. In the said communication, the appellant was directed to furnish certificate of proof for education, immovable property, annual income, no re-marriage certificate, indigent circumstances and an undertaking that none of the family members are employed in Government or Private Sector. The said communication also mentioned that unless a person had completed eighth standard, he or she will not be eligible for compassionate appointment. The appellant also obtained the above mentioned certificates from Tahsildhar, Ambasamudram on 06.03.2006. Since she did not have the qualification as required, she made an application for appointment for her son Piramanayagam. The said application was made on 22.06.2009. The first respondent had rejected the representation on 05.12.2009 on the ground that the application made beyond three years from the date of death of the employee. Further, he should have completed 18 years and also passed eighth standard. Aggrieved by the same, the writ petition was filed.

3. After an elaborate discussion, the learned single Judge dismissed the writ petition vide order dated 19.10.2010, holding that the Court cannot give direction with regard to appointment on compassionate ground *dehors* the provisions of the scheme in force framed by the Government.

4. Heard Mr.M.S.Jeyakarthick, learned counsel appearing for the appellant and Mr.T.Sakthikumaran, learned standing appearing for the respondents and perused the materials available on record.

5. The only question that arises for determination is,
*"Whether the appellant is entitled for compassionate
appointment?"*



6. As it has been repeatedly held that the purpose of providing employment is only succour to the family at the time of hardship and distress caused due to the death of the sole breadwinner. The compassionate appointment is a deviation from the regular appointment through the recruitment process. Therefore, the Government had fixed three years from the date of death to be the limitation for preferring an application.

7. The Honourable Supreme Court in a recent judgement in **N.C.Santhosh V. State of Karnataka, 2020 (7) SCC 617**, 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 death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee."

8. At this juncture, it would be appropriate to advert to G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, in which, comprehensive guidelines are issued for appointment on compassionate grounds. The said G.O., prescribes only three years time limit from the date of death of the Government servant for making an application for appointment on compassionate ground. The said G.O., also prescribes the age limit as 18 years at the time of submitting an application on compassionate appointment. Further, the compassionate appointment shall be made to the post in 'C' & 'D' groups only.

9. In the case on hand, the first application was made by appellant for herself within time. Though she was directed to produce the required documents, as she did not possess the required educational qualification, it appears that she had not pursued the application. Later, an application is made in the year 2009 after her son Piramanayagam attained majority. Unfortunately, by the said time, the limitation of three years prescribed for making an application for appointment on compassionate ground, was over. Therefore, the first respondent has rightly rejected the application which is also confirmed by the learned single Judge.

10. Therefore, we find no reason to interfere with the same in the light of the above discussion and the latest Government Order issued in G.O.(Ms).No.18, Labour and Employment (Q1) Department,



dated 23.01.2020, in this regard. Accordingly the writ appeal is dismissed, confirming the order of the learned single Judge dated 19.10.2010 made in W.P(MD)No.6033 of 2010. No Costs.

Sd/-

Assistant Registrar (CS-III)

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/ /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.

+1 CC to Mr.M.S.JEYAKARTHIK, Advocate(SR-9910[F] dated 10/03/2021)

+1 CC to Mr.T.SAKTHI KUMARAN, Advocate (SR-9968[F]dated 10/03/2021)

W.A(MD)No.507 of 2014
09.03.2021

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