



WEB COPY

W.P.(MD) No.8912 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.8912 of 2018

and

WMP (MD) .No.8311 of 2018

R. Soundar.

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Tamil Nadu Electricity Board,
Chennai - 600 002.
2. The Chief Engineer/Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Tamil Nadu Electricity Board,
Chennai - 600 002.
3. The Superintending Engineer,
Pudukottai Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukottai - 622 001.

... 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 in pursuant to the impugned order passed by the third respondent in Ka.No.08804/001/Ni Pi 1/Uthavi 4/ Ko. Va. Ve/2016 -1 dated 09.11.2016 and quash the same and consequently direct the respondents to provide employment to the petitioner in the services of Tamil Nadu Generation and Distribution Corporation Ltd., (Tamilnadu Electricity Board) on compassionate grounds based on the Educational Qualification within the stipulated time.

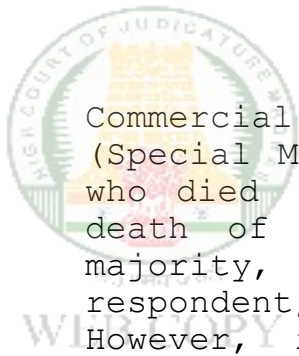
For Petitioner	:	Mr. M. Saravanakumar
For Respondents	:	Mr. T. Sakthi Kumaran Standing Counsel

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 09.11.2016, passed by the third respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that his father was working as

<https://hcservices.ecourts.gov.in/hcservices/>



Commercial Assistant in the Office of the Assistant Engineer (Special Maintenance), Pudukkottai Electricity Distribution Circle, who died on 20.09.1997, while he was service. At the time of death of his father, the petitioner was minor. On attaining majority, he submitted an application on 26.09.2016 to the third respondent, particularly based on his educational qualification. However, impugned order was passed by the third respondent rejecting the said claim of the petitioner. Hence, the petitioner filed the Writ Petition before this Court.

3. The learned standing counsel appearing for the respondents would submit that the aforesaid decision was taken by the third respondent rejecting the claim of the petitioner on the ground that the petitioner has not fulfilled the requirements prescribed for appointment on compassionate ground, relying on the various decisions of Hon'ble Supreme Court as well as this court wherein it was categorically held that there could be any relaxation of time to consider the applications for appointment on compassionate grounds, submitted beyond the period of three years from the date of death of the employee.

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)

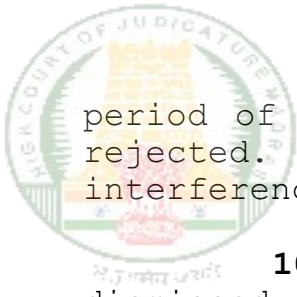
"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get 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 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, G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, 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 28.07.2003 and the writ petitioner has submitted his application for compassionate appointment only on 26.09.2016, nearly after thirteen 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 the same is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

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To

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Pudukottai - 622 001.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-25674[F] dated 09/08/2021)

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-25544[F] dated 06/08/2021)

**W.P. (MD) No.8912 of 2018
and
WMP (MD) .No.8311 of 2018
05.08.2021**

MGJ (24/08/2021) 4P 6C