



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.19770 of 2021

Vignesh

.. Petitioner

Vs.

The Superintending Engineer,
TANGEDCO,
Electricity Distribution Circle,
Pudukottai District.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order, dated 19.12.2020 vide Letter No.08387/Ne.Pe.1/Uthavi.4/Ko.Varisu.Velai/2020 passed by the respondent and to quash the same as arbitrary and illegal and consequently, to direct the respondent to appoint the petitioner in suitable job under compassionate appointment.

For Petitioner

:Mr.K.Baalasundharam

For Respondent

:Mr.T.Sakthi Kumaran

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the respondent, dated 19.12.2020 and to direct the respondent to appoint the petitioner in any suitable job on compassionate ground.

2.Heard Mr.K.Baalasundharam, learned Counsel appearing for the petitioner and Mr.T.Sakthi Kumaran, learned Counsel appearing for the respondent.

3.The petitioner is the son of one Ashokan, who was working as Mazdoor in the respondent Corporation. The petitioner's father died due to electrocution, while he was in service, on 10.11.2011, when the petitioner's brother and petitioner were minors. Though the petitioner's mother submitted an application on 17.10.2014, requesting the respondent to give compassionate appointment to her or any of her sons, the respondent did not consider by processing the application. The petitioner submitted an application on 01.12.2020, to provide compassionate appointment to him. However, the request of the petitioner was rejected on the ground of limitation, ie., the legal heirs did not submit the application within a period of three years from the date when the eligible legal heir became major. Aggrieved by the same, the above Writ Petition is filed.



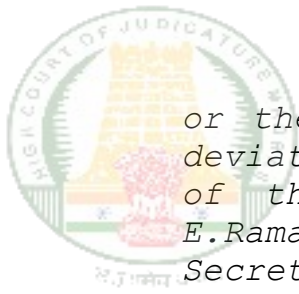
4.The learned Counsel for the petitioner submitted that the petitioner's application seeking for compassionate appointment cannot be dismissed on the ground of limitation, as the petitioner's mother had earlier submitted the application on 17.10.2014, which was within three years from the date of death of employee. It is further stated that the petitioner did not complete the age of 18 years within three years from the date of death of petitioner's father and that therefore, the petitioner's application, which was filed within three years from the date on which, the petitioner attained majority, cannot be dismissed on the ground of limitation.

5.The application submitted by the petitioner's mother was not pursued for reasons best known to the petitioner or his mother. However, that cannot be taken to save limitation . Assuming that the petitioner has submitted an application within three years from the date on which the petitioner attained majority, the scheme framed by respondent regarding compassionate appointment should enable the petitioner to seek appointment within three years from the date of attaining majority. The petitioner submitted the application on 01.12.2020, by that time, three years have elapsed calculating from the date when the petitioner's elder brother became major. Therefore, the reason that was assigned by the respondent to reject the application cannot be assailed.

6.The learned Counsel for the petitioner relied upon a judgment of learned Single Judge of this Court in the case ***S.Subesh vs The Chairman and Managing Director, TANGEDCO and others, in W.P. (MD) No.11808 of 2020***, dated 16.09.2020. The case dealt with by the learned Single Judge does not fall under the category of case dealt with by the Honourable Full Bench of this Court in ***Nandini Dev vs Secretary to Government, in W.P. (MD) No.7016 of 2011***, dated 11.03.2020. The Honourable Full Bench of this Court has categorically held that if belated application is made beyond three years or belatedly after the legal heir becoming major, that cannot be considered within the meaning of the scheme framed by the employer to give compassionate appointment to the legal heir of the deceased employee. The Honourable Full Bench of this Court has held as follows:

"31. The Hon'ble Supreme Court in *Sanjay Kumar Vs. State of Bihar*, (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application by the dependant of the deceased employee filed after he attains majority cannot be entertained. Considering a belated application will be contrary to the scheme framed by the Government and will be also contrary to the judgments of the Supreme Court.

32. In view of the above, the reference is answered as under:- a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s



or the scheme that has been framed by the employer. Any deviation from the scheme is not permissible. b) In view of the above the judgment of the Division Bench in E.Ramasamy Vs. Tamil Nadu Electricity Board and the Secretary to Government Vs. Renugadevi, lays down the correct law and the judgment of the Division Bench dated 06.08.2013 in A.Kamatchi Vs. The Chairman, Tamil Nadu Electricity Board, which is contrary to the scheme framed by the Tamil Nadu Electricity Board does not lay down the correct proposition. Reference is answered accordingly."

7.Having regard to the admitted facts and the decision of the Honourable Full Bench of this Court, this Court is not inclined to entertain this Writ Petition. Hence, this Writ Petition is dismissed as devoid of any merits. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

TO: -

The Superintending Engineer,
TANGEDCO,
Electricity Distribution Circle,
Pudukottai District.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-33599[F]
dated 02/11/2021)

W.P. (MD)No.19770 of 2021
02.11.2021

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