



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.22228 of 2016

R.Usha

... Petitioner

Vs.

1.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Ltd.,
801, Anna Salai, Chennai.

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Karur.

3.The Assistant Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Aundipatti, Alamarathupatti,
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its order in Letter No. 08872/1012/Ne.Pe.2/U/Tha.2/Ko.VA.Ve/2016 dated 19.09.2016 and quash the same and consequently direct the respondents to appoint the petitioner under Compassionate appointment forthwith.

For Petitioner : Mr.R.Thangasamy

For Respondents : Mr.T.Sakthi Kumaran
Standing Counsel

O R D E R

This writ petition is filed seeking a writ of certiorarified mandamus, to call for the records on the file of the 2nd respondent pertaining to its order in Letter No. 08872/1012/Ne.Pe.2/U/Tha.2/Ko.VA.Ve/2016 dated 19.09.2016 and quash the same and consequently direct the respondents to appoint the petitioner under Compassionate appointment forthwith.

2. Heard the learned counsel appearing for the petitioner and Mr.T.Sakthi Kumaran, learned Standing Counsel, who takes notice for the respondents.

3. The case of the petitioner is that the petitioner's father, namely, Rengasamy was working as an Accountant in the respondents office and while he was in service, due to harness, he died on 25.02.2003 leaving behind the petitioner and other legalheirs. At

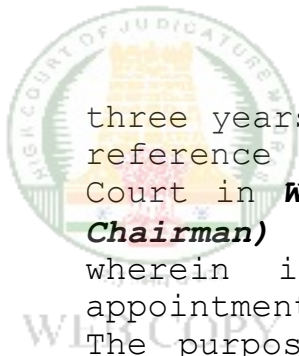


the time of his father's death, the petitioner was major and was studying ITI in the trade of Draughtsman Mechanic and after completed the same during the year 2000, she made an application for compassionate appointment in the second respondent office on 09.02.2005. However, the said application was not processed on the ground that there was a dispute with regard to the legal heirs of the deceased government employee. One Lakshmi claimed to be the first wife of the deceased employee and hence, Lakshmi filed a suit in O.S.No.13 of 2005 before the District Court, Karur and the suit was referred to the Lok Adalat wherein the suit was compromised on various terms and conditions among one of the terms is to get compassionate appointment to the petitioner and the another terms is to issue the pensionary benefits and death benefits to Lakshmi. Immediately, the petitioner made an application for compassionate appointment on 10.04.2010 and the said application was rejected on the ground that the petitioner's application is beyond three years from the date of death of the petitioner's father. Challenging the said rejection order, this writ petition has been filed.

4. The learned counsel for the petitioner would submit that though the petitioner made an application on 09.02.2005, immediately after the death of her father, however, there is no proof available to prove that the said application was returned by the respondents without any process. Again the petitioner made applications on 07.04.2007 and 10.04.2010, however, the impugned order was passed on 19.09.2016 inadvertently only on the ground that the application was not made within three years from the date of death of the employee. Just because there is a delay in submitting the application for the above said reason by the petitioner for compassionate appointment, it cannot be said that the family of the deceased Government servant has got over the indigent circumstances. Hence, he prays for allowing this writ petition.

5. Per contra, the learned Standing Counsel would submit that the petitioner's father died in the year 2003 and though the petitioner claimed that she made an application in the year 2005, however, no proof was shown in this writ petition and subsequently, the petitioner made an application on 07.04.2007, which was rejected by the second respondent by order dated 15.06.2007 and without challenging the same, the petitioner again made applications on 10.04.2010 and 25.07.2016, which were also rejected on 15.06.2010 and 19.09.2016 respectively, filing the present writ petition is unsustainable in law. In this regard, reliance was placed on the decision of the Division Bench of this Court in W.A.No.3899 of 2019 dated 11.03.2020, where the Division Bench has held that any application beyond the period of three years cannot be entertained. Hence, this writ petition has to be dismissed on the ground of lapses.

6. It transpires from the records, which is not in dispute, that the application was submitted by the petitioner well after the period of three years.



three years, ie., after he attained majority. In this regard, useful reference can be had to the decision of the Division Bench of this Court in ***W.A.No.3899 of 2019, dated 11.03.2020 (P.Poongodi vs. The Chairman)*** on which reliance has been placed by the respondents, wherein it has been categorically held that the claim for appointment on compassionate basis must be made without any delay. The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased, who has died in harness, to get over the immediate financial crisis. The scheme under which compassionate appointment can be given to be construed strictly.

7. In the light of the decision of the Division Bench in Poongodi's case (Supra), the present petition is wholly unsustainable and, accordingly deserves to be dismissed. Accordingly, this writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 M/s.T.SAKTHI KUMARAN, Advocate (SR-4052[F] dated 09/02/2021)

Order made in
W.P. (MD) No.22228 of 2016
09.02.2021

KUN (CO)

SRS (01/03/2021) 3P : 2C

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