



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.5361 of 2016

and

W.M.P. (MD)No.4811 of 2016

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M.Paulraj

... Petitioner

versus

1. The Chief Engineer (Personnel),
Tamil Nadu Generation and Electricity
Distribution Corporation (TANGEDCO)
No.144, Anna Salai,
Chennai - 2.

2. The Superintending Engineer,
Tamil Nadu Generation and Electricity
Distribution Corporation (TANGEDCO),
Tuticorin Electricity Distribution Circle,
Tuticorin,
Tuticorin District.

... Respondents

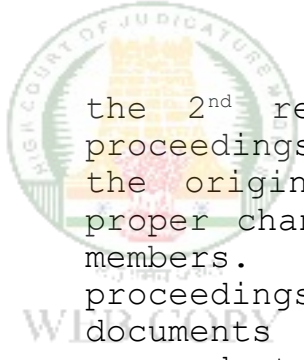
Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings Na. Ka.No. 33819/285/ Ni.A/Ni.bi.2/ U.2/ Ko.Thani/2016 dated 09.02.2016 and quash the same as illegal and consequently, to direct the 2nd respondent to consider the name of the petitioner for employment on compassionate ground within the period may be stipulated by this Court.

For Petitioner : Mr.Nawaz Khan
for M/s.Ajmal Associates
For Respondents: Mr.T.Sakthikumaran

ORDER

This writ petition has been filed seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records from the 2nd respondent in his proceedings Na.Ka.No. 33819/285 / Ni.A/Ni.bi.2/U.2/Ko. Thani/ 2016 dated 09.02.2016 and quash the same as illegal and consequently, to direct the 2nd respondent to consider the name of the petitioner for compassionate appointment, within the time to be stipulated by this Court.

2. The petitioner's father, who was working as Wireman in the Tamil Nadu Electricity Board, died in harness on 08.02.1997, leaving behind the petitioner, his mother, elder brother and sister as legal heirs. The petitioner, immediately after the death of his father, submitted an application for compassionate appointment to



the 2nd respondent on 06.06.1997. The 2nd respondent, by his proceedings dated 17.06.1997, called upon the petitioner to produce the original certificates and re-submit the application through proper channel along with No Objection Certificate from the family members. According to the petitioner, on receipt of the said proceedings, he resubmitted his application along with necessary documents through proper channel. Despite the same, the 2nd respondent has not taken any steps to consider his application. Thereafter, the petitioner approached the second respondent by way of representation on 25.10.2012 seeking employment and another application to the 1st respondent on 16.09.2015, for which, the first respondent directed the 2nd respondent to pass orders on his representation. However, the 2nd respondent, by his proceedings dated 09.02.2016, rejected his claim on the ground that his application has not been made within a period of three years from the date of death. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that originally, the petitioner submitted the application for compassionate appointment on 06.06.1997, i.e. well within three years from the date of death of his father. Since no response from the second respondent, the petitioner approached the second respondent and submitted a representation on 25.10.2012 seeking employment and another application for compassionate appointment to the 1st respondent on 16.09.2015, for which, the first respondent directed the 2nd respondent to pass appropriate orders on the petitioner's representation. However, the second respondent mechanically rejected the petitioner's application on the ground that the application was made beyond the period of three years. Further, there is no minimum educational qualification required for the last grade servant. Accordingly, he prayed for allowing the writ petition.

4. Per contra, the learned counsel for the respondents submitted that though the petitioner initially submitted the application for compassionate appointment, immediately after the death of his father, the said application was returned and further, instructed to resubmit the application to the competent authority so as to enable them to pass appropriate orders on the said application. Thereafter, the petitioner has not proceeded with the said application and after the lapse of five years, the petitioner submitted another application for compassionate appointment. Therefore, the said application was rejected on the ground of delay. Further more, the petitioner has not established his financial inability before the competent authority and without establishing the financial hardship, no appointment can be appointed on compassionate grounds. Therefore, he prayed for dismissing the writ petition.

5. Heard the learned counsel appearing for the petitioner



and the learned counsel for the respondents.

6. The very concept of giving a compassionate appointment is for the bereaved family to tide over the financial difficulties faced by it due to the untimely death of the breadwinner. Further, indigency is one of the relevant factors to be borne in mind while deciding on providing compassionate appointment.

7. In the present case on hand, the petitioner initially made the application on 06.06.1997, within three years from the date of death of his father, for which, the second respondent directed the petitioner to re-submit his application along with necessary documents. Though it is claimed by the petitioner that pursuant to the direction of the second respondent, he resubmitted the application along with necessary documents, there are no sufficient materials to substantiate the same. Further, the petitioner, after re-submitting the application, neither proceeded with the said application nor approached the second respondent for employment on compassionate appointment and after the lapse of 15 years, the petitioner has approached the second respondent for seeking employment on compassionate ground in the year 2012. Thereafter, he submitted another application for compassionate appointment to the first respondent in the year 2015. Further, as per G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the application for compassionate appointment should be made within three years from the date of death of the Government employee. Therefore, the second respondent has rightly rejected the said application on the ground of laches. Moreover, there was no document to show that the petitioner's family is in indigent circumstances. Therefore, the claim of the petitioner cannot be accepted.

8. With the above observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

To

1. The Chief Engineer (Personnel),
Tamil Nadu Generation and Electricity
Distribution Corporation (TANGEDCO)
No.144, Anna Salai,

<https://hcservices.chennai/hcservices/>



2. The Superintending Engineer,
Tamil Nadu Generation and Electricity
Distribution Corporation (TANGEDCO),
Tuticorin Electricity Distribution Circle,
Tuticorin,
Tuticorin District.

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+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-4340[F] dated
10/02/2021)

+3 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-4553[F] dated
11/02/2021)

W.P. (MD)No.5361 of 2016
10.02.2021

MA (CO)
KB(16.03.2021) 4P 7C