



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.13775 of 2017

A.Selvi

... Petitioner

Vs.

1.Tamil Nadu Electricity Generation
Distribution Corporation Ltd.,
Rep by its Chief Engineer (Personnel)
144, Anna Salai,Chennai-2.

2.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Tamil Nadu Electricity Generation and Distribution
Corporation Ltd.,Virudhunagar.

3.K.Surya (Minor)
Rep by his mother and natural
Guardian Mrs.Sathiya.

... Respondents

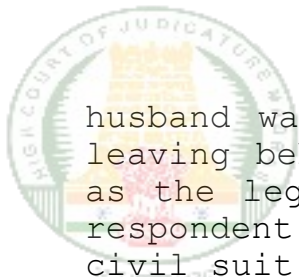
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in Ka.No.13901/NiPi2/Help.2/Ko compassionate appointment/2016 dated 02.09.2016, quash the same and consequently, direct the respondents to provide compassionate appointment to the petitioner forthwith in any suitable post, award costs.

For Petitioner	:	Mr.S.Arunachalam
For R1 & R2	:	Mr.J.Sakthi Kumaran Standing Counsel
For R3	:	Mr.R.Shankar Ganesh

O R D E R

This writ petition is filed by the petitioner, calling for the records pertaining to the impugned order of the second respondent in Ka.No.13901/NiPi2/Help.2/Ko compassionate appointment/2016, dated 02.09.2016 and quash the same and consequently, direct the respondents to provide compassionate appointment to the petitioner forthwith in any suitable post.

2.The case of the petitioner is that the petitioner's husband was employed as a Helper in Virudhunagar Electricity Distribution Circle, Tamil Nadu Electricity Board, from 22.08.2003. Thereafter, he was promoted as Line Inspector at Mulliputhur Sub-Station. After divorcing the first wife, the deceased husband married the petitioner legally on 04.03.2012. Out of their wedlock, the petitioner begotten a male child. Thereafter, while the petitioner's



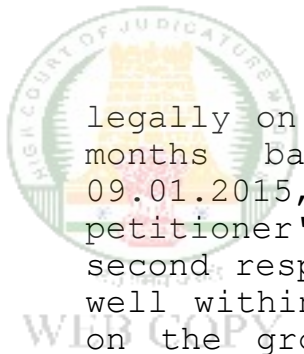
husband was in service, he died on 09.01.2015, due to ill health, leaving behind the petitioner, her son, 15 months baby and his son as the legal heirs. In order to get terminal benefits, the third respondent herein, who is the son of the first wife, has filed a civil suit in O.S.No.32/2015 seeking declaration to get his share in the properties of the petitioner's deceased husband and the said O.S is pending. In view of the indigent circumstances, the petitioner has made an application on 20.08.2016 with all necessary documents and certificates to the second respondent for providing appointment on compassionate grounds. The said application was rejected by the second respondent, dated 02.09.2016 stating that compassionate appointment cannot be granted, as Civil Suit in O.S.No.32 of 2015 filed by the third respondent, is pending before the District Munsif Court, Sathur. Challenging the order of the second respondent, the present writ petition is filed for the aforesaid relief.

3.The learned counsel appearing for the petitioner would submit that at the time of death of the petitioner's husband, the first wife's son viz., Surya, was 7 years old and hence, the petitioner is the only responsible person for getting compassionate appointment. Therefore, she made an application on 20.08.2016 to the second respondent and the said application was rejected on the ground that, a civil suit is pending before the lower Court. The said suit was filed by the third respondent for getting the pensionary benefits of his deceased father and not for compassionate appointment. Without considering the suit prayer, the second respondent had mechanically rejected the petitioner's application. Hence, he prays for allowing the said writ petition.

4.The learned Standing Counsel appearing for the first and second respondents submitted that at the time of death of the petitioner's husband, the third respondent herein is a minor and now, he became major. Hence, the petitioner has to obtain 'No Objection Certificate' from the third respondent. Further, the learned Standing Counsel fairly conceded that in the impugned order, the second respondent has rejected the petitioner's application mentioning that a civil suit is pending and hence, the same is an unsustainable one.

5.The learned counsel appearing for the third respondent submitted that at the time of death of the petitioner's husband, the third respondent is a minor and now, he became major and therefore, he is entitled to get compassionate appointment. The third respondent vehemently opposed for providing compassionate appointment to the petitioner. Further the learned counsel submitted that the petitioner is not taking care of the third respondent. Hence, he prays for dismissal of the writ petition.

6.Considering the facts and circumstances of the case, the facts in this case are not in dispute. Admittedly, the deceased
<https://hccases.mca.gov.in/hccases/> Services are for in/hccases/ forcing his first wife, married the petitioner herein



legally on 04.03.2012 and she has blessed with a male child and 15 months baby. Admittedly, the petitioner's husband died on 09.01.2015, while he was in service. After the death of the petitioner's husband, she made an application on 20.08.2016 to the second respondent for providing compassionate appointment, which is well within the period of limit. The said application was rejected on the ground that there was a civil suit pending before the District Munsif Court, Sathur, in O.S.No.32 of 2015.

7. On a perusal of the plaint filed in O.S., it is seen that after the death of the petitioner's husband, the third respondent, who is the son of the first wife, has filed a Civil Suit against the petitioner for getting his 1/4th share in the terminal benefits of his deceased father and not for compassionate appointment. Therefore, the rejection of the petitioner's application by the second respondent is not correct. Further, it is made clear that since the third respondent at relevant point of time was minor, the petitioner need not get 'No Objection Certificate' from the third respondent. Hence, this Court is inclined to interfere with the impugned order of the second respondent.

8. Accordingly, the impugned order passed by the second respondent in Ka.No.13901/NiPi2/Help.2/Ko compassionate appointment/2016, dated 02.09.2016, is set aside and the matter is remanded back for fresh consideration and the second respondent is directed to consider the petitioner's claim, without insisting on her to get No Objection Certificate from the third respondent and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

9. In view of the above, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ns

To

1. Tamil Nadu Electricity Generation
Distribution Corporation Ltd.,
Rep by its Chief Engineer (Personnel)
144, Anna Salai,
Chennai-2.



2.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Tamil Nadu Electricity Generation and Distribution
Corporation Ltd.,
Virudhunagar.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-1674[F] dated
21/01/2021)

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-1488[F] dated
20/01/2021)

+1 CC to M/s.S.ARUNA CHALAM, Advocate (SR-1543[F] dated
21/01/2021)

W.P. (MD)No.13775 of 2017
20.01.2021

(TP) CO
AP(17/02/2021) 4P 6C