



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD) No.14081 of 2017

S.Janaki

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Cements Corporation Limited,
735, Anna Salai,
Chennai-600 002.

2.The General Manager,
Tamil Nadu Cements Corporation Limited,
Alangulam Post-626 127,
Virudhunagar District.

... Respondent

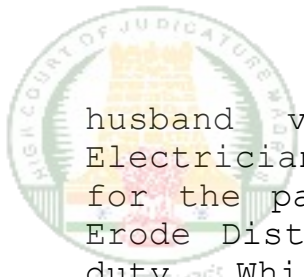
Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for all records relating to the proceedings of the first respondent made in R.C.No.2064/A4/2017, dated 16.06.2017 and quash the same thereby directing the first respondent to grant appointment on compassionate grounds in a suitable post as per the qualifications of the petitioner's daughter Sathiyabama in the Tamil Nadu Cements Corporation Limited, (A Government Tamil Nadu undertaking).

For Petitioner	:	Mr.S.Alagusundar
For Respondents	:	Mr.A.Karthik
		Government Advocate
		* * * * *

ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for all records relating to the proceedings of the first respondent made in R.C.No.2064/A4/2017, dated 16.06.2017 and quash the same and thereby direct the first respondent to grant appointment on compassionate grounds in a suitable post as per the qualifications of the petitioner's daughter Sathiyabama in the Tamil Nadu Cements Corporation Limited, (A Government Tamil Nadu undertaking).

2. The case of the petitioner is that the petitioner's
<https://hcservices.ecourts.gov.in/hcservices/>



husband viz., Late.Sugumar had worked as a Senior Grade Electrician at Tamil Nadu Cements Corporation Limited, Alangulam for the past several years and thereafter he was transferred to Erode District on 25.09.2014 and the petitioner's husband joined duty. While he was in duty, he met with an accident on 30.09.2014 and thereby he was taken to hospital and in spite of medical attention, he was succumbed to injuries and was declared dead on 04.10.2014 and as per his wish, his organs were donated to help the needy patients. Immediately after the death of the petitioner's husband, the petitioner made an application on 10.10.2014 seeking compassionate appointment to her elder daughter, along with all necessary documents required including the No Objection Certificate from her younger daughter. The said application was received by the first respondent on the same date. However, no action was forthcoming. Hence, the petitioner made another representation on 28.03.2017. As against the inaction of the respondents, the petitioner filed a writ petition in W.P.(MD) No.8196 of 2017 seeking a writ of mandamus to direct the respondents to pass orders on her application.

3. This Court, by order dated 28.04.2017, issued a direction to the therein to consider the application of the petitioner within a period of eight weeks. In compliance of the above said order, the present impugned order came to be passed, on the ground that M/s Tamil Nadu Asbestos, Alangulam, Virudhunagar District has stopped the production from 2015 onwards and the financial position of the said Unit is not viable to provide employment at present. However, the petitioner's request will be taken up for consideration on priority basis as per existing Rules and Regulations being followed by the Corporation at the appropriate time. Challenging the said order, the present writ petition is filed.

4. Learned Counsel appearing for the petitioner would submit that the petitioner's application was not rejected in toto, it was rejected only on the ground that the Tamilnadu Asbestos, Virudhunagar Unit was closed in the year 2015, however, the Tamil Nadu Cement Corporaiton have units in all over Tamil Nadu and the petitioner's daughter is ready to join in any one of the Units, if the the respondent provides compassionate appointment. The learned Counsel would further submit that though the petitioner received a sum of Rs.2,000/- as monthly pension, it is not sufficient to maintain the family and there is no male child for taking care of the petitioner and the petitioner is completely depending upon her elder daughter and if employment is provided to the petitioner's younger daughter, the indigent circumstances will be removed, due to the death of the petitioner's husband. Hence, the learned Counsel prays for appropriate orders.



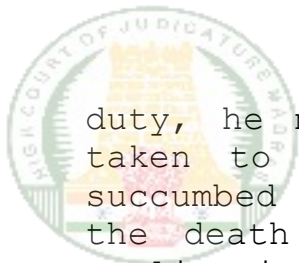
5. Per contra, the learned Counsel appearing for the respondents would submit that though the application seeking compassionate appointment is filed within the prescribed time limit, that application was rejected only on the ground that M/s Tamil Nadu Asbestos, Alangulam, Virudhunagar District was closed in the year 2015 and there is no production. Further, the Tamil Nadu Cements Corporation suffered a loss and they are not recruiting any employment and if any employment opportunity arises, the petitioner's claim will be considered in accordance with the existing Rules and Regulations.

6. Further, the learned Counsel appearing for the respondents would submit that the petitioner received a sum of Rs.2,000/- as monthly pension and she filed an application seeking compassionate appointment to her elder daughter and the petitioner's two daughters were already got married before the death of the petitioner's husband and the married daughter is not entitled to get compassionate appointment. The petitioner's daughters are not depending upon the petitioner and the dependent alone will entitle to seek compassionate appointment and accordingly, the learned Counsel for the respondents prays for dismissal of the writ petition.

7. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents and perused the materials placed on record.

8. 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 has to be construed strictly.

9. The facts in the present case are in not in dispute. The petitioner's husband viz., Late.Sugumar had worked as a Senior Grade Electrician at Tamil Nadu Cements Corporation Limited, Alangulam for the past several years and thereafter he was transferred to Erode District on 25.09.2014. While he was in



duty, he met with an accident on 30.09.2014 and thereby he was taken to hospital and in spite of medical attention, he was succumbed to injuries and died on 04.10.2014. Immediately after the death of the petitioner's husband, the petitioner made an application on 10.10.2014 seeking compassionate appointment to her elder daughter, along with all necessary documents required including the No Objection Certificate from her younger daughter. Though the application seeking compassionate appointment is filed within the prescribed time limit, that application was rejected by the respondents only on the ground that M/s Tamil Nadu Asbestos, Alangulam, Virudhunagar District was closed in the year 2015 and there is no production. Further, the Tamil Nadu Cements Corporation suffered a loss and they are not recruiting any employment and if any employment opportunity arises, the petitioner's claim will be considered in accordance with the existing Rules and Regulations.

10. In view of the above, the respondents had not rejected the claim of the petitioner in toto and they communicated the petitioner that her request will be taken up for consideration on priority basis as per existing rules and regulations being followed by the Corporation at the appropriate time. Therefore, the the present Writ Petition is wholly unsustainable and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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.

To

1.The Managing Director,
Tamil Nadu Cements Corporation Limited,
735, Anna Salai,
Chennai-600 002.



2.The General Manager,
Tamil Nadu Cements Corporation Limited,
Alangulam Post-626 127,
Virudhunagar District.

+1 CC to M/s.GP (SR-1640[F] dated 21/01/2021)

+1 CC to M/s.S.ALAGUSUNDAR, Advocate (SR-1712[F] dated 21/01/2021

W.P (MD) No.14081 of 2017

20.01.2021

es (CO)

TR(15.02.2021) 5P 5C