



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2021

CORAM

WEB COPY

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

W.P. (MD)No.22676 of 2017

Saheel Aqthar

: Petitioner

Vs.

1.The Chief Engineer (Personnel),
Tamilnadu Generation and Distribution
Corporation Limited,
TANGEDCO,
144, Annasalai, Chennai-2.

2.The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Limited,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai.

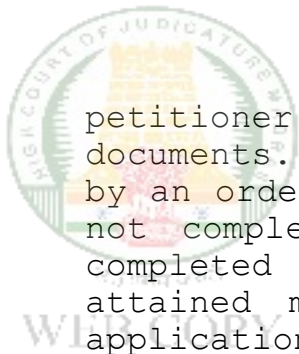
: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings issued by the first respondent in his letter No.106759/476/G8/G82/2012-2, dated 03.01.2013 and consequential proceedings issued by the second respondent in his letter No.011118/232/MePo/Ma Mi Pa Va/Madu/Ni.A./Ni.Ma/Ni.Pi3/Vu4/A. Ka comp./2017, dated 16.09.2017 and quash the same and consequently, to direct the respondents to appoint the petitioner in any suitable job on the basis of the application submitted by the petitioner under the compassionate grounds.

For Petitioner :Mr.Ramsundar Vijayaraj
for M/s.Veera Associates
For Respondents :Mr.T.Sakthi Kumaran

ORDER

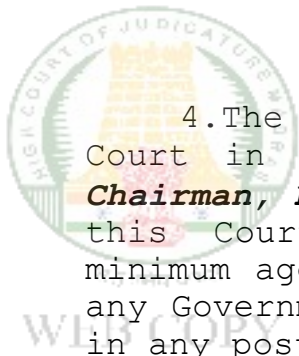
It is the case of the petitioner that the petitioner' father was appointed as Oil Tester under the respondent Corporation in the year 1980 and he was promoted to various posts and while he was working as Junior Engineer Grade-I, he died on 04.01.2010 leaving behind the petitioner, his mother and his sister, as his legal heirs. After the death of petitioner's father, his mother made an application on 03.12.2012 seeking compassionate appointment to the



petitioner under the respondent Corporation along with necessary documents. The said application was rejected by the first respondent by an order, dated 03.01.2013 on the ground that the petitioner has not completed the age of 18 years. Thereafter, the petitioner completed Diploma in Electrical and Electronic Engineering and attained majority. On attaining majority, the petitioner made application on 05.07.2017 with all necessary documents to the first respondent, which was forwarded to the second respondent on 09.08.2017. However, the second respondent, by proceedings, dated 16.09.2017, rejected the petitioner's application on the ground that there is a delay in submitting the application. Challenging the same, the present Writ Petition has been filed.

2.The learned Counsel for the petitioner would submit that at the time of death of petitioner's father, the petitioner is a minor and hence, the petitioner's mother made application for appointment on compassionate ground. However, the said application was rejected on the ground that the petitioner was minor. He would also submit that immediately after the petitioner attained majority, he made another application for compassionate ground. However, the second respondent has rejected the application on the ground of delay. The learned counsel for the petitioner would submit that both grounds are unsustainable and the authorities has to consider as to whether the petitioner's family is in penurious condition or not and without considering the harness faced by the family, the second respondent has mechanically rejected the petitioner's application and he prays for allowing this Writ Petition.

3.The learned Counsel for the respondents would submit that there is no dispute about the fact that the petitioner's father died on 04.01.2010, while he was in service and the petitioner's mother made application on 03.12.2012 seeking employment to the petitioner on compassionate ground and the same was rejected by order, dated 03.01.2013 on the ground that the petitioner has not attained the age of majority at the time of submitting the application. The learned Counsel would further submit that after a lapse of many years, the petitioner has preferred an application, dated 05.07.2017 seeking compassionate appointment, however, the said application was rejected by the second respondent, by proceedings, dated 16.09.2017 on the ground that there is no rule change in force for considering the request of the petitioner and the application was also not preferred within three years. He would also submit that the father of the petitioner died in the year 2010 and the petitioner claimed employment on compassionate ground after seven years from the date of death of his father. Hence, the petitioner's application was rightly rejected. He would also submit that the appointment on compassionate ground is not a matter of right and could not be considered automatically without analysing the relevant factors and the family financial condition. Hence, he prays for dismissal of this Writ Petition.



4.The very same issue came up for consideration before this Court in W.A.No.3899 of 2019 in the case of **Poongodi vs The Chairman, Electricity Board**, and the Honourable Division Bench of this Court has held that for entry into Government service, the minimum age is fixed as 18 years and no minor can be appointed to any Government service. Since the age limit for getting appointment in any posts in Government service is fixed as 18 years, no post can be kept vacant for a long time for the petitioner and the similarly placed persons to attain the age of 18 years. The scheme provides for making application within a period of three years and not after attaining the age of majority and hence, the Writ Petition has to be dismissed.

5.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 that 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.

6. In the light of the above, the present Writ Petition is wholly unsustainable and, accordingly deserves to be dismissed. Accordingly, this Writ Petition stands dismissed. However there shall be no order as to costs.

Sd/-
Assistant Registrar(AE)

//True copy//

/ /2021
Sub Assistant Registrar

+1CC to Mr.T.SAKTHI KUMARAN, Advocate (SR-1673[F] dated 21/01/2021)

+1CC to M/s.VEERA ASSOCIATES, Advocate (SR-1724[F] dated 21/01/2021)

Order made in
WP (MD) No.22676 of 2017
20.01.2021

CMR
SRS/05.02.2021/3P/3C