



W.P.No.23672 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Writ Petition No.23672 of 2013
and M.P.No.1 of 2014

A.Silambarasan
S/o E.Asokan (late)

... Petitioner

Vs.

1.The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai
Chennai – 2.

2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai
Chennai – 2.

3.The Superintending Engineer
Tamil Nadu Generation and Distribution Corporation Ltd.,
Thiruvannamalai Electricity Distribution Circle
Thiruvannamalai District.

4.The Executive Engineer (Operation & Maintenance)
Tamil Nadu Generation and Distribution Corporation Ltd.,
Cheyyar, Thiruvannamalai.

... Respondents



W.P.No.23672 of 2013

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records connected with the impugned orders passed by the 4th respondent in Lr.No.671/Se.Po/EPa/Se/UNiA/Ni.May/Uu.2/Ko.Va.Ve.Va/2013 dated 11.02.2013 and quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate ground.

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.K.Rajkumar

ORDER

This Writ Petition has been filed challenging the order passed by the 4th respondent in Lr.No.671/Se.Po/EPa/Se/UNiA/Ni.May/Uu.2/Ko.Va.Ve.Va/2013 dated 11.02.2013, rejecting the claim made by the petitioner seeking appointment on compassionate ground and to direct the respondents to provide suitable employment to the petitioner on compassionate ground.

2. The brief facts of the case of the petitioner are as follows:

The petitioner's father was working as Wireman in the Tamilnadu Electricity Board in the office of Junior Engineer, South Urban, Thiruvannamalai Electricity Distribution Circle. While he was in service, he met with an accident



W.P.No.23672 of 2013

and died on 19.02.1998 at the age of 43 years. At the time of death of the petitioner's father, he left behind his wife - Vijaya, daughters – Sangeetha, Sathiya, the petitioner herein and grandmother - Annammal as his legal heirs. The petitioner was aged 6 years at the time of death of his father. After the petitioner's father's death, his mother was unable to maintain the family without any income. Hence, the petitioner's mother made representation to the 3rd respondent, requesting for appointment on compassionate ground, as early as in the year 2000, along with necessary documents. However, the 3rd respondent vide letter No.11545(393)/Ni.P.3/U.3/K.Va.Ve/85-2/2001-8 dated 23.04.2001, rejected the claim of the petitioner's mother, on the ground that the educational certificate furnished by her was found to be bogus. Therefore, after completion of 18 years, petitioner herein submitted his representation to the 3rd respondent, on 25.06.2012, requesting for compassionate appointment. However, the petitioner's representation was rejected by letter of the 4th respondent dated 11.02.2013, stating that the petitioner did not make his representation within 3 years from the date of death of his father.



W.P.No.23672 of 2013

WEB COPY

3. Heard the learned counsel for the petitioner and the learned Counsel appearing for the respondents.

4. Learned counsel for the petitioner would submit that the Scheme of Compassionate Appointment was introduced by the Tamil Electricity Board for providing Employment assistance to the dependent of the deceased employees, who are in most penurious circumstances by adopting the rules of compassionate appointment issued by the Government of Tamil Nadu vide its Government orders. It is settled proposition of law that the scheme or the rule that was prevalent on the date of demise of the deceased employee alone will govern the scheme of compassionate. In the instant case, the petitioner's father died in service due to an accident on 19.02.1998 and on the date when the petitioner's father died, the limitation of three years to make application seeking compassionate appointment was not prescribed by the Board.

5. The learned counsel for the petitioner would further submit that the Government of Tamilnadu, for the very first time, vide its G.O.Ms.No.120,



W.P.No.23672 of 2013

WEB COPY

Labour and Employment Department dated 26.06.1995, prescribed and imposed a limitation period of three years time limit from the date of death of deceased for submitting application for compassionate appointment. Following the aforesaid G.O, the Electricity Board issued proceedings in B.P.Ms.(FB)No.46 Administrative Branch dated 13.10.1995 adopting the said G.O.Ms.No.120 dated 26.06.1995 and Para No.3 of the said Board Proceedings reads thus:

"3. The Board has decided to adopt the order of the Government, accordingly, the following modification of the existing scheme of providing employment assistance to the dependents of the deceased employees of the Board is ordered.

1. The application for appointment on compassionate ground should be made within three years from the date of death of employees of the Board.

2. The maximum age limit for such appointment is raised to 50(fifty) years in the case of the widows of the deceased employees of the Board.

3. In the event of already expired staff while in service the dependent should apply for employment assistance within three years from the date of issue of this order."



W.P.No.23672 of 2013

WEB COPY

6.If the death of employee of the Board occurred on or before 13.10.1995, then the period of three year time limit will commence only from 13.10.1995 due to the Board proceedings made in B.P.Ms.(FB)No.46 Administrative Branch. Subsequently, the Board by Memo No.147941/921/ R.6(2)/96 dated 14.06.1997 issued a clarification to B.P.Ms.(FB) No.46 dated 13.10.1996 as under:

"As per the B.P.(FB.)No.46, dated 13.10.1995, the legal heirs of the deceased employee shall give application within 3 years from the date of death of Board Employee as mentioned in the letter under reference cited. (2) Board employees who died prior to implementation of B.P.No.46 dated 13.10.1995 the legal heirs of the deceased employee shall apply for employment assistance within three years from the date of issue of the said B.P. (3) If the applicants who applied for employment assistance within 3 years from the date of death and not completed 18 years of age, such cases will be requested to apply again after completion of 18 years of age. (4) If the applicants applied again after completion of 18 years of age, the applicants will be



W.P.No.23672 of 2013

WEB COPY

intimated that such applications will be examined as per the Board's Rules in force at that time".

7.The Learned counsel also relied on the following decisions in support of the contention that the representation made after attaining majority, for appointment under compassionate ground was proper,

- (1) 2006 (9) SCC 195 [Syed Khadim Hussain vs. State of Bihar & Ors]
- (2) Order dated 27.06.2006 in W.A.No.29 of 2006 [Tmt.P.Rajamani vs. The Chairman, TNEB & Ors]
- (3) Order dated 30.03.2009 in W.A.No.1652 of 2006 [The Chief Engineer / Personnel & Ors vs. S.Sudar]
- (4) Order dated 08.04.2009 made in SLP (Civil) No.15534 of 2007.
- (5) Order dated 02.07.2009 in W.A.No.42 of 2007 [The Chief Engineer Personnel Ors. vs. P.Venkatesan].
- (6) 2011 (3) LLN 405 [J.Jebamary vs. The Chairman, TNEB & Ors]

8.This Court considered the submission made on either side and perused the materials available on record.

9.The petitioner's mother made representation in the year 2000, well within



W.P.No.23672 of 2013

WEB COPY

time and the petitioner submitted his application on 26.05.2012, after attaining majority, within time.

10.It is pertinent to note here that the application submitted by the petitioner after attaining majority could not be said to be belated. In the case relied on by the learned counsel for the petitioner in ***J.Jebamary Vs. Chairman TNEB*** reported in ***2011 (3) LLN 405***, his Lordship Justice Paul Vasanthakumar J., as he then was, referred to several Judgments of this Hon'ble Court as well as the Hon'ble Apex Court and in paragraph 13 of the Judgment stated as follows:-

13.From the above referred decisions passed by this Court in series of cases on the same ground, it is evident that the similar grounds raised by the respondents that the petitioner has not filed Application seeking compassionate appointment within three years from the date of death of her father and that she has not completed 18 years of age within three years are not valid grounds to deny appointment on compassionate ground as no one in her family is employed and the family of the petitioner is in indigent circumstance even



W.P.No.23672 of 2013

WEB COPY

today as certified by the Revenue Officials. Petitioner's mother and petitioner are prosecuting the matter before the respondents right from July, 1992."

11.In such circumstances, it was a deserving case where the respondents should have shown some compassion, while considering the petitioner's application for compassionate appointment. Unfortunately, the respondents did not seem to have shown any compassion at all and mercilessly rejected the petitioner's application on a hyper technical ground. Further, rejecting the claim of the petitioner by the respondents 3 and 4 on the basis of time limit is against the spirit of the board proceedings dated 13.10.1995.

12.For all the reasons stated above, this Court is of the view that the claim of the petitioner seeking compassionate appointment cannot be rejected. Accordingly, the order impugned in this Writ Petition is set aside. The respondents are directed to pass appropriate orders providing suitable employment to the petitioner on compassionate ground. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of



W.P.No.23672 of 2013

WEB COPY
this order.

13.In the result, this Writ Petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

15.12.2022

Index : Yes/No

Internet : Yes/No

Neutral citation: Yes/No

Speaking order/Non-speaking order

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To

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WEB COPY



W.P.No.23672 of 2013

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Writ Petition No.23672 of 2013

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