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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.6568 OF 2022

AND

W.M.P.NO.6679 OF 2022

S.Pavithran

... Petitioner

.Vs.

1. The Chairman,
The Tamil Nadu Generation and
Distribution Corporation Limited,
(TANGEDCO), Anna Salai,
Chennai - 2.

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

3. The Executive Engineer, O & M,
The Tamil Nadu Generation and
Distribution Corporation Limited,
(TANGEDCO), Perambalur.

... Respondents

PRAYER:-

Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by him in Ka.Na.269/Ni.Pi.1/V4/Co.Va.Ve/2020 dated 14.09.2020 and Ka.No.459/Ni.Pi.1/V4/CO/VA/VE/2020 dated 10.12.2020 and quash the same and direct the respondents to appoint the petitioner in any suitable post in the respondent organisation in commensurate with the qualification of the petitioner on compassionate ground on the death of his father Suriyakumar who was a contract labour within a reasonable time.



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For Petitioner : Mr.K.Venkataramani
Senior Counsel
For Mr.S.Sarathkumar

For Respondents : Mr.P.Subramanian
Standing Counsel
For TNEB

ORDER

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 14.09.2020 and 10.12.2020, passed by the second respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that the petitioner's father was served only as temporary casual labour in the respondent Board and his service has not been regularised. Before his service could be regularized, he died on 23.08.2009. At that time, the petitioner was minor and no other family members claimed compassionate appointment. After completion of his studies and after attaining majority, the petitioner sent a representation to the 2nd respondent on 21.07.2020 seeking for appointment on compassionate ground and the same was rejected by the 2nd and 3rd respondents by letter dated 14.09.2020, on the ground that the petitioner's father was not served as a permanent employee in TNEB and his service has not been regularised and further, the petitioner has not submitted his application within three years. Challenging the said order, the writ petitioner has filed this petition before this Court.

3. The learned Senior Counsel appearing for the petitioner submitted that at the time of death of the petitioner's father, the petitioner was a minor, however he submitted application on 21.07.2020 after attaining majority and completion of his SSLC. However, the 2nd and 3rd respondents, without taking into account the said fact, has mechanically rejected the petitioner's request, which is in total violation of the settled legal position. Therefore, he prayed that the respondents may be directed to consider the petitioner's case for compassionate appointment.

4. The learned Standing Counsel appearing for the respondent Board submitted that the respondent Board has rightly rejected the application submitted by the petitioner for the reason that admittedly, the petitioner's father was a casual employee and therefore, as per G.O Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the legal heirs of the deceased



employee is not entitled for providing job under the compassionate scheme. Admittedly, the petitioner was a minor at the time of the death of the father. Therefore, as already decided by this Court after attaining the majority, the application for compassionate appointment cannot be entertained beyond three years and this Court has no jurisdiction to interfere with the order passed by the respondent Board.

5. I have considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. Identical issue came up before the Honourable Division Bench of this Court in W.A.No.1749 of 2019 (Sudhanthira Devi vs. The State of Tamil Nadu and others) [in the said Judgment, myself (DKKJ) is one of the member] and the Division Bench, by Judgment dated 03.09.2019, following the decisions of the Honourable Supreme Court, has held that applications for compassionate appointment submitted beyond the period of three years cannot be entertained.

7. In Government of India and another v. P.Venkatesh [(2019) 15 SCC 613], the Honourable Supreme Court has held as follows:

"8. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9-8- 2016, nearly twenty one years had elapsed since the date of the death of the employee.

9. ...

10. Bearing in mind the above principles, this Court held: (Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138) SCC pp.141-42, para 6)

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The



per G.O.(Ms) No.18, Labour and Employment (Q1) Department, dated 23.01.2020, in which in para.4, it is stated as follows:

Persons whose legal heirs are not eligible for consideration under compassionate ground appointment:

(i) Persons who are retained in service under Fundamental Rule 56(1) (c) after the date of superannuation.

(ii) Persons who are under Temporary appointments, consolidated pay, daily wages, contract appointments and whose services are not regularized.

(iii) Persons who do not come under regular time scale of pay.

Therefore, following the aforesaid G.O and the decisions cited supra, the petitioner's claim cannot be countenanced and therefore, there is no merits in the writ petition and the same is liable to be dismissed.

12. In fine, this writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
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3. The Executive Engineer, O & M,
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+1cc to Mr.P.Subramanian, Advocate, S.R.No.19551
+1cc to Mr.M.Muthappan, Advocate, S.R.No.19789

W.P.NO.6568 OF 2022 AND
W.M.P NO.6679 OF 2022

MT (CO)
PBS/08/04/2022