



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.14071 of 2021

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... Petitioner

VS.

- 1 The Managing Director
Tamil Nadu Electricity Generation and Distribution Corporation
No.144 Anna Salai,
Chennai- 600 002.
 - 2 The Superintending Engineer
Tamil Nadu Electricity Generation and Distribution Corporation
Dharmapuri Electricity Distribution Circle
Dharmapuri District.
 - 3 P.Parvathy
 - 4 P.Praveena
 - 5 P.Keerthana
- ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Mandamus directing Directing the official Respondents herein to appoint the petitioner to any of the class IV of the category of posts by way of compassionate appointment without insisting upon the No Objection Certificate from the private Respondents and without insisting upon the 8th



Standard passed certificate by taking into account the fact that petitioner is only seeking for appointment for class IV Category of posts which only require the ability to read and writ in Tamil.

For Petitioner : Ms.Dakshayani Reddy,
for Mr.P.Nethaji

For Respondents 1 & 2 : Mr.P.Subramanian,
Standing Counsel

For Respondents 3 to 5 : Mr.R.Ramesh

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the official respondents to appoint the petitioner to any of the class-4 category post by way of compassionate appointment without insisting for no objection certificate from the private respondents and without insisting upon the eighth pass certificate by taking into account the fact that class-4 category requires only the ability to read and write in Tamil.

2. The petitioner's father, Palaniappan who was an employee with the official respondent, died while in service. The petitioner had sought for compassionate appointment through her representation dated 26.11.2020 within a period of three years from the date of her father's death. According



to her, she had studied upto 7th standard and according to her, she can read and write in Tamil. She seeks for appointment on compassionate basis in any one of the class-4 posts. According to her, the eligibility requirement of eighth standard will not apply for class-4 posts.

3. The third respondent is the second wife and the fourth and fifth respondents are her children. They have also sought for compassionate appointment with the respondents 1 and 2 on account of death of Palaniappan while in service.

4. Heard Ms.Dakshayani Reddy, learned counsel representing Mr.P.Nethaji, learned counsel for the petitioner, Mr.P.Subramanian, learned standing counsel appearing for the respondents 1 and 2 and Mr.R.Ramesh, learned counsel appearing for the respondents 3 to 5.

5. Admittedly, neither the representation given by the petitioner nor the representation given by the respondents 3 to 5 seeking for compassionate appointment have been considered by the respondents 1 and 2.



6. A counter affidavit has been filed by the respondents 1 and 2 before this Court stating that the petitioner is not eligible for compassionate appointment as according to their rules, the minimum eligibility criteria is eighth standard, whereas the petitioner has not completed eighth standard.

7. The respondents 3 to 5 have also filed a separate counter stating that the petitioner is not entitled for compassionate appointment as they are more deserving than the petitioner.

8. The learned counsel for the petitioner would rely upon the decision rendered by the Madurai Bench of this Court on 19.01.2021 in W.P.(MD).No.14460 of 2016 and the order dated 20.09.2010 passed in W.P.No.23561 of 2009 to substantiate the claim of the petitioner that the minimum eligibility criteria of eighth standard is not applicable for class-4 category post which is sought for by the petitioner on compassionate basis. However, the same is disputed of by the learned standing counsel appearing for the respondents 1 and 2 as well as the learned counsel appearing for the private respondents namely respondents 3 to 5.



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9. The learned counsel appearing for the respondents 3 to 5 would also rely upon the decision of the Hon'ble Supreme Court dated 30.09.2022 in the case of ***State of Maharashtra and Another vs. Ms.Madhuri Maruti Vidhate*** passed in Civil Appeal No.6938 of 2022 and would submit that a married daughter cannot be held to be a dependent and therefore, the petitioner is not entitled for compassionate appointment. Since the petitioner is already married and is having two children, he would submit that by applying the ratio laid down by the Hon'ble Supreme Court, the petitioner is not entitled for compassionate appointment. The contention of the respective parties is recorded by this court.

10. Admittedly, the representations of the petitioner as well as that of the respondents 3 to 5 have not been considered till date on merits and in accordance with law by the respondents 1 and 2. It is also disputed by the learned counsel for the petitioner that the representation given by the respondents 3 to 5 have not been given within a period of three years from the date of death of the deceased employee.

11. No prejudice would be caused to any of the parties, if the



respective representations given by the petitioner as well as by the private respondents seeking for compassionate appointment in their favour on account of death of Palaniappan is considered on merits and in accordance with law, after affording one personal hearing to the respective parties who are seeking for compassionate appointment within a time frame to be fixed by this Court.

12. For the foregoing reasons, this Court directs the second respondent to consider the petitioner's representation dated 26.11.2020 as well as the joint representation of the respondents 3 to 5 dated 18.02.2020 seeking for compassionate appointment on merits and in accordance with law after providing one personal hearing to each of the parties and the parties are permitted to place all the authorities before them who shall consider the same and thereafter, pass final orders within a period of twelve weeks from the date of receipt of a copy of this order. In view of the final orders being passed by this Court, the interim order granted by this Court on 08.07.2021 restraining the respondents from paying terminal benefits and family pension to the private respondents is hereby vacated as such an order cannot be passed in this writ petition, where the main relief sought for by the



petitioner is only for compassionate appointment.

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13. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.10.2022

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Index:Yes/No

Speaking/Non-speaking orders

To

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ABDUL QUDDHOSE, J.

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