



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.6926 of 2021

M.Ramalakshmi

... Petitioner

vs.

1.The Superintending Engineer
Tamil Nadu Generation &
Distribution Corporation
(TANGEDCO)
Tuticorin Electricity Distribution Circle
Tuticorin

2.The Chief Engineer, Pani Amaippu
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO)
144, Anna Salai, Chennai-600 002

3.The Chairman
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO)
Tantransco Building
144, Anna Salai
Chennai-600 002

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the proceeding of the first respondent made in Letter No.7297/246/Ne.a/Ne.p2/E.Ne.2/Co.Varisu Velai/2020, dated 11.11.2020, quash the same and consider her fresh representation dated 30.12.2019, on the basis of the order passed in W.A.(MD) No.1099/2019 and consequently appoint her in a suitable post with the respondents.

For Petitioner : Mr.Rajasekaran.K.

For Respondents : Mr.S.Arivalagan, Standing Counsel

O R D E R

The order of rejection rejecting the claim of the petitioner for compassionate appointment is under challenge in this writ petition.



2. The father of the petitioner D.Murugan was working as Helper in the respondent - Corporation and died on 25.12.2003. At the time of death of the deceased employee, the petitioner was a minor. The mother of the petitioner submitted an application to the respondents for compassionate appointment on 21.01.2004. After receiving the death benefits and other pensionary benefits, the mother of the petitioner again approached the first respondent for compassionate appointment. However, the case of the petitioner's mother was not considered on the ground that she did not possess the minimum requisite educational qualification of pass in eighth standard for appointment to the TANGEDCO Service. Thereafter, the petitioner submitted an application on attaining the age of majority and the said application was rejected by the first respondent on 30.07.2014, on the ground that the petitioner did not submit the application within a period of three years from the date of death of the deceased employee. The petitioner filed W.P.(MD) No.4791 of 2015, before this Court, to quash the said order of rejection. This Court, by order dated 21.08.2019, dismissed the writ petition on the ground that the father of the petitioner died on 25.12.2003, but the application seeking compassionate appointment was submitted during June, 2014 and after a lapse of sixteen years from the date of death of the deceased employee, the application submitted cannot be entertained. The petitioner preferred W.A.(MD) No.1099 of 2019 and the Honourable Division Bench of this Court, by Judgment dated 31.10.2019, dismissed the writ appeal, however, liberty was granted to the petitioner to make a fresh representation enclosing documentary proof to show that her father was a dwarf and if any such representation is given it is open to the respondents to consider the same. Based on the liberty granted by the Honourable Division Bench, the petitioner submitted a fresh application on 30.12.2019. However, the said application was also rejected by the respondents vide proceedings dated 11.11.2020, which is under challenge in this writ petition.

3. The learned counsel for the petitioner states that the respondents by citing the very same reasons earlier furnished rejected the petitioner's application submitted afresh. However, the application submitted after a lapse of three years cannot be entertained as per the scheme of compassionate appointment. Therefore, on instructions from the Head Office of the TANGEDCO, again the application submitted by the petitioner was rejected.

4. A question arises whether the petitioner is eligible for compassionate appointment based on her application dated 30.12.2019 submitted afresh as per the liberty granted by the Honourable Division Bench of this Court.

5. The fact remains that the father of the petitioner died on 25.12.2003 and on 21.01.2004, the mother of the petitioner



submitted application seeking appointment. As the mother of the petitioner did not possess the minimum requisite educational qualification of pass in eighth standard, she was not considered for appointment. However, the petitioner submitted application on attaining the age of majority in the year 2014, but her request was rejected by the first respondent on 30.07.2014. Therefore, the petitioner submitted another application seeking compassionate appointment, after a lapse of eleven years from the date of death of the deceased employee. No doubt, the writ petition filed by the petitioner in W.P.(MD) No.4791 of 2015 was dismissed on 21.08.2019. The Honourable Division Bench in W.A.(MD) No.1099 of 2019, while affirming the order passed in the writ petition, dismissed the writ appeal, however, an observation was made granting liberty to the petitioner to submit a fresh representation. Mere liberty granted to the petitioner to submit a fresh representation would not confer any right on the petitioner to claim appointment on compassionate grounds as a matter of right. Compassionate appointments are to be made strictly in accordance with the terms and conditions of the scheme. The very purpose and object of the scheme of compassionate appointment is to mitigate the circumstances arising on account of the sudden death of the employee. Thus, efflux of time is a ground to draw a factual inference that the penurious circumstances arose on account of the death of the employee became vanished. Thus, compassionate appointments cannot be granted after a lapse of many years.

6. The scheme of compassionate appointment is a concession and not an absolute right. The scheme being violative of Articles 14 and 16 of the Constitution of India. Appointment on compassionate grounds is to be restricted to the extent possible so as to ensure that all appointments are made under the constitutional schemes and by providing equal opportunity to all the eligible persons, who all are aspiring to secure public employment through open competitive process. Compassionate appointees are not undergoing any selection process. There is no reservation. There is no assessment of merit, eligibility or suitability. Thus, there is a possibility of appointing inefficient candidates on compassionate grounds, which would affect the effective and efficiency in the public administration, which is a constitutional mandate. Therefore, the observation made by the Honourable Division Bench granting liberty to submit a fresh representation would not confer any right to claim compassionate appointment as a matter of right. When the compassionate appointment itself is a concession, it is to be extended strictly in accordance with the terms and conditions of the scheme. Therefore, this Court does not find any infirmity in respect of the reasons furnished in the impugned order. That apart, the application has been filed after a lapse of eleven years and already eighteen years lapsed from the date of the death of the deceased employee. Therefore, the scheme of compassionate appointment cannot be extended at this length of time.



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W.P.(MD) No.6926 of 2021

7. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

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/ /2022

Sub Assistant Registrar(CS)

Krk

To

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nsn(CO)

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