



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.10592 of 2019 and
W.M.P.(MD) No.8119 of 2019

R.Prabakaran

... Petitioner

-vs-

1. The Chief Engineer (Employment),
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
N.P.K.R.R.Maalgai 8th Street,
800, Anna Salai, Chennai-600 002.

2. The Superintending Engineer,
Trichy Electricity Distribution Circle,
Metro, Trichy - 20.

3. The Executive Engineer,
Office & Maintenance,
Tamil Nadu Electricity Board,
Manapparai Division, Trichy District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant of impugned order in Letter No.38476/0691-2/ep/gp/1/,/epc/nfh/th/nt/2018 dated 29.09.2018 issued by the 2nd respondent and quash the same and consequently directing the respondents to provide employment to the petitioner on compassionate grounds within a time frame fixed by this Court.

For Petitioner : Mr.R.Mathavaselvam

For Respondents : Mr.S.Arivalagan, Standing Counsel

O R D E R

The order impugned, rejecting the claim of the writ petitioner for compassionate appointment, is under challenge in the present writ petition.

2. The petitioner states that his father, Late Ramasamy served as Wireman in TANGEDCO and died on 04.04.2015 while he was in service. The petitioner himself has stated that his mother was



working as a part time Noon Meal Organiser in Anganwadi Centre. Under those circumstances, the petitioner states that the family was in indigent circumstances and he submitted an application seeking appointment on compassionate grounds. The 2nd respondent rejected the application on the ground that the wife of the deceased employee was already employed in Anganwadi Centre as part time Noon Meal Organiser and if any legal heir of the deceased employee is working in any of the Government department or in private sector, then the legal heirs are not entitled for appointment on compassionate grounds.

3. This Court is of the considered opinion that the scheme of compassionate appointment is a concession and cannot be claimed as an absolute right. Scheme being violative of Articles 14 and 16 of the Constitution of India, the same must be implemented strictly in accordance with the terms and conditions. Once any of the legal heir of the deceased employee is working in Government sector or in private sector, then the members of the family are not entitled to secure employment on compassionate grounds. This being the scope of the scheme, there is no infirmity in respect of the order passed by the 2nd respondent. The principles regarding compassionate appointment are ruled as follows by the Hon'ble Supreme Court in **State of Uttar Pradesh and Others vs. Premlata**, reported in (2022) 1 SCC 30:-

"8. While considering the issue involved in the present appeal, the law laid down by this Court on compassionate ground on the death of the deceased employee are required to be referred to and considered. In the recent decision, this Court in **State of Karnataka vs. V.Somayashree [(2021) 12 SCC 20]**, had occasion to consider the principle governing the grant of appointment on compassionate ground. After referring to the decision of this Court in **N.C.Santhosh vs. State of Karnataka [(2020) 7 SCC 617]**, this Court has summarized the principle governing the grant of appointment on compassionate ground as under:

10.1. That the compassionate appointment is an exception to the general rule;

10.2. That no aspirant has a right to compassionate appointment;

10.3. The appointment to any public post in the service of the State has to be made on the basis of the principle in accordance with Articles 14 and 16 of the Constitution of India;

10.4. Appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and/or satisfaction of the eligibility criteria as per the policy;



10.5. The norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment.

9. As per the law laid down by this Court in a catena of decisions on the appointment on compassionate ground, for all the government vacancies equal opportunity should be provided to all aspirants as mandated under Articles 14 and 16 of the Constitution. However, appointment on compassionate ground offered to a dependent of a deceased employee is an exception to the said norms. The compassionate ground is a concession and not a right.

9.1. In the case of **H.P. v. Shashi Kumar [(2019) 3 SCC 653]**, this Court in paras 21 and 26 had an occasion to consider the object and purpose of appointment on compassionate ground and considered decision of this Court in **Govind Prakash Verma v. LIC [(2005) 10 SCC 289]**, it is observed and held as under:

"21. The decision in **Govind Prakash Verma**, has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in **Umesh Kumar Nagpal v. State of Haryana [(1994) 4 SCC 138]**. The principles which have been laid down in **Umesh Kumar Nagpal** have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract:

"2. ... As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family



would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned."

"26. The judgment of a Bench of two Judges in *Mumtaz Yunus Mulani v. State of Maharashtra* [*Mumtaz Yunus Mulani v. State of Maharashtra*, (2008) 11 SCC 384 : (2008) 2 SCC (L&S) 1077] has adopted the principle that appointment on



compassionate grounds is not a source of recruitment, but a means to enable the family of the deceased to get over a sudden financial crisis. The financial position of the family would need to be evaluated on the basis of the provisions contained in the scheme. The decision in Govind Prakash Verma [Govind Prakash Verma v. LIC, (2005) 10 SCC 289 : 2005 SCC (L&S) 590] has been duly considered, but the Court observed that it did not appear that the earlier binding precedents of this Court have been taken note of in that case."

4. With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The Chief Engineer (Employment),
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
N.P.K.R.R.Maaligai 8th Street,
800, Anna Salai, Chennai-600 002.
2. The Superintending Engineer,
Trichy Electricity Distribution Circle,
Metro, Trichy - 20.
3. The Executive Engineer,
Office & Maintenance,
Tamil Nadu Electricity Board,
Manapparai Division, Trichy District.

W.P. (MD) No.10592 of 2019
27.04.2022

_SS/30.05.2022 : 5P/4C