

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.19343 of 2022

P.Dhanalakshmi

... Petitioner

Vs.

1.The Chief Engineer / Personnel,
Tamilnadu Generation and Electricity
Distribution Corporation Limited,
144, Annasalai,
Chennai – 2.

2.The Superintending Engineer,
Tamilnadu Generation and Electricity
Distribution Corporation Limited,
Kanyakumari Electricity Distribution Circle,
Nagercoil – 3.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the second respondent order in reference fbj vz;. 002603/12016/ep.gp.1/c.3/2021 ehs; 30.06.2021 and the first respondent order in reference fbj vz;.045538/230/[p9/[p91/2020 ehs; 14.02.2022 to quash the same and directing the respondents to provide employment assistance on compassionate grounds.

For Petitioner : Mr.R.Thangasamy
For Respondents : Mr.S.Arivalagan,
Standing Counsel.

ORDER

The petitioner herein is the daughter of one P.Perumal Pillai, who was working as a Wireman in TANGEDCO and who had died on 22.08.2019 due to heart attack. The claim of the petitioner for appointment on compassionate grounds from TANGEDCO, is governed by G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, which Government Order is adopted by TANGEDCO through the proceedings in (Per.) FB TANGEDCO Proceedings No.11, dated 11.06.2020.

2. The petitioner's present claim has now been rejected on the ground that one Sundaralingam, who is also the legal heir of late P.Perumal Pillai, is employed as Constable in CISF and in view of Clause 8(v)(a) of TANGEDCO Proceedings No.11, which places an embargo for claiming compassionate appointment when one of the deceased employee's family members are in regular employment in Government / private enterprises, her request for compassionate appointment cannot be considered.

3. The reasoning adopted by the respondents to reject the petitioner's request for compassionate appointment cannot be sustained on two grounds.

(i) Firstly, Clause 8(v) of the aforesaid proceedings, the condition that compassionate appointment will not be considered, if any person of the deceased employee's family is in regular employment, requires to be verified by obtaining the certificate from the concerned Tahsildar. In the instant case, the petitioner herein had obtained a certificate from the Tahsildar on 20.06.2020, which categorically states among other entitlements, that the petitioner's brother, namely, Sundaralingam, who is employed in CISF, is married and living separately from the petitioner. When the family member of the deceased employee, who is employed, is not supporting the petitioner's family, it cannot be said that such an employment would be an impediment for compassionate appointment. The very purpose and object of such a Clause in the Scheme under Proceedings No.11, is only to enable employment under compassionate grounds to uplift a distressed family and when one of the family members, who is employed, is not supporting the family, such a family will continue to be in distressed circumstances, which could be an entitlement for consideration of compassionate appointment.

(ii) Secondly, there is yet another reason assigned by the respondents in the impugned order that the compassionate appointment will be given only to the person, who is nominated by the wife / husband of the deceased employee. In the instant case, the employee's wife had pre-deceased him and he was survived by his two children, namely, the petitioner herein and her elder brother. As earlier pointed out, the elder brother is married and had crossed 25 years of age and is living separately with his family. He has also given his No Objection Certificate on 21.12.2019 for grant of compassionate appointment to the petitioner herein. Thus, the only person, who is entitled for compassionate appointment, is the petitioner herein and therefore, the question of the benefits to be extended to the nominee alone will not arise and hence, there are no other impediments for the respondents to grant the same.

4. In the light of the above findings and observations, the impugned order, dated 30.06.2021, on the file of the second respondent and the consequential impugned order, dated 14.02.2022, on the file of the first respondent are quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders, granting appointment to the petitioner herein on compassionate grounds, within a period of three (3) months from the date of receipt of a copy of this order.

5. This Writ Petition stands allowed accordingly. There shall be no order as to costs.

30.08.2022

Index : Yes / No
Internet : Yes/ No
Lm

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M.S.RAMESH, J.

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