



W.P.(MD).No.27768 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.27768 of 2022

S.Azhagu Selvi

... Petitioner

vs.

1.The Chief Engineer,
TANGEDCO,
144, Anna Salai,
Chennai -2.

2.The Superintending Engineer,
TANGEDCO,
Thoothukudi Distribution Circle,
Thoothukudi.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the impugned order dated 09.11.2022 in Ka.No. 4355951/மேபாபொ/தூநி/நிபி2/கோ.CM.PET/2022 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 & R2 : Mr.S.Arivalagan

Standing counsel



W.P.(MD).No.27768 of 2022

WEB COPY

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent, dated 09.11.2022 in Ka.No. 4355951/மேபாபொ/தூடி/நிபி2/கோ.CM.PET/2022 and to quash the same.

2. By consent of both parties, the writ petition itself is taken up for final disposal at the admission stage.

3. The case of the petitioner is that her father viz., Sandhanaraj entered into service in the respondent Department in the year 1996 and rendered service in the capacity of wire man. While so, on 17.11.2008, during the employment he met with an accident and died in harness leaving behind the petitioner, her mother and her grandmother in an indigent circumstances. Therefore, the petitioner's mother has made an application on 16.08.2011, for compassionate appointment. However, the said application was rejected, on the ground that the petitioner's mother has not possessed the requisite qualification. After getting necessary qualification, the petitioner has made an application on 25.08.2022, to



W.P.(MD).No.27768 of 2022

WEB COPY

the Hon'ble chief Minister Special Cell and the same was forwarded to the second respondent. The said application was rejected on 09.11.2022, on the ground that the petitioner has not made an application within a period of three years. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that the petitioner's mother made the application within a period of three years and the same was returned on the ground that the petitioner's mother not possessed the minimum qualification. After become major, the petitioner has made the application for compassionate appointment. But the same was rejected on the ground of limitation. He would further submit that similarly situated person was granted compassionate appointment on 13.10.1995, by relaxing the three years. However, the same was not extended to the petitioner. Hence, he prayed for allowing the writ petition.



W.P.(MD).No.27768 of 2022

WEB COPY

5. The learned Standing counsel appearing for the respondents 1 and 2 would submit that at the relevant point of time, the law permits to relax the age. It is well settled by the catena of decision of the Division Bench of this Court to the effect that the compassionate appointment is not the source of recruitment. It has to be considered only based on the indigent circumstances faced by the family within a period of three years. Hence, the concession cannot be shown to the petitioner, since the petitioner's father died in the year 2008 and the petitioner has made an application after lapse of more than two decades, which is not permissible.

6. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents 1 and 2.

7. The facts in the present case are not in dispute. The petitioner's father died in the year 2008 and initially the petitioner's mother made an application for compassionate appointment in the year 2011. However,



W.P.(MD).No.27768 of 2022

the said application was rejected on the ground that the petitioner's mother was not possessed the requisite qualification. Subsequently, in the year 2022, the petitioner has made an application through online and the same was forwarded to the Electricity Board and the Electricity Board has passed the impugned order, rejecting the petitioner's request on the ground that the petitioner has not made the application within a period of three years. However, the law is settled by the catena of decisions of this Court as well as the Apex Court to the effect that the compassionate appointment is not the source of recruitment and based on the indigent circumstances faced by the family at the relevant point of time, the employer has to consider for ordering compassionate appointment. Unless the deceased family members satisfied the employer in terms of the scheme, no compassionate appointment can be granted. Further, in the present case, the earlier application made by the petitioner's mother was rejected and the rejection order was not challenged subsequently. Further, the petitioner being the daughter of the deceased employee made an application in the year 2022, after lapse of two decades, which is admittedly contrary to the Scheme. Further, the leniency shown in the



W.P.(MD).No.27768 of 2022

year 1995 cannot be cited as the precedent for all the cases. The Hon'ble Apex Court clearly held that no concession will be shown in the compassionate appointment, since the compassionate appointment is not a source of recruitment and the relevant portion of the order of this Court reads as follows:

“11. The Full Bench Judgment made in W.P.(MD).No. 7016 of 2011 etc., batch consisting of Hon'ble Chief Justice and other two Hon'ble Judges of this Court, dated 11.03.2020 has given a complete answer to all these questions which has been also followed by a Division Bench of this Court of Hon'ble Chief Justice and other learned Judge in W.A.No.237 of 2020, dated 01.09.2020.

12. For easy reference, the order of the Division Bench referred to above is quoted hereunder :

W.P.No.36481 of 2004 "Having heard Mr.Nissar Ahmed, learned counsel for the appellant and keeping in view the Full Bench decision, which has been delivered in W.P. (MD) No.7016 of 2011 ([Nandini Dev vs. Secretary to Government](#)) dated 11.03.2020, the relief prayed for by the appellant cannot be extended. We may gainfully extract paragraphs 31 and 32 of the judgment answering the reference as follows:- “31. The Hon'ble Supreme Court in



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W.P.(MD).No.27768 of 2022

Sanjay Kumar Vs. State of Bihar, (2000) 7 SCC 192, has held that when the very purpose of compassionate appointment is to see that the family gets immediate relief, then the application by the dependant of the deceased employee filed after he attains majority cannot be entertained. Considering a belated application will be contrary to the scheme framed by the Government and will be also contrary to the judgments of the Supreme Court. 32. In view of the above, the reference is answered as under:- a) Appointment on compassionate basis has to be strictly followed in accordance with the relevant G.O.'s or the scheme that has been framed by the employer.”

8. In view of the above said decision, this Court is not inclined to interfere with the order impugned in this writ petition. Hence, this Writ Petition is dismissed. No costs.

09.12.2022

Index: Yes/No
Internet: Yes/No

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7/9



W.P.(MD).No.27768 of 2022

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W.P.(MD).No.27768 of 2022

M.DHANDAPANI,J.

akv

W.P.(MD)No.27768 of 2022

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