



WEB COPY



W.P.No.363 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.363 of 2023

R.Varsha

...Petitioner

-Vs-

1. Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep by its Chief Engineer (Personnel),
“N.P.K.K.R.Maalgai”,
No.144/800, Anna Salai,
Chennai-600 002.

2. Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO),
Rep by its Superintending Engineer,
Chengai Electricity Distribution Circle,
Chengalpattu,
Chengalpattu District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd respondent dated 07.05.2022 in Ka.No.393/Mepo/Semipava/Se/Ni.A/Ne.Me/Ni.P3/3 Ko.Va.Ve/2022 and quash



W.P.No.363 of 2023

the same and consequently direct the respondents to forthwith appoint the petitioner on compassionate ground.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.David Sundar Singh
Standing Counsel

ORDER

Heard Mr.K.Selvaraj, learned Senior counsel for the petitioner and Mr.David Sundar Singh, learned Standing Counsel for the respondents.

2. The petitioner's father R.Ravichandran, while working as Mazdoor in the respondent Corporation died in a road accident on 23.04.2016. While he was on duty, he had gone to attend an electricity fuse call. The petitioner, who was born on 14.12.2003, was aged about 13 years at the time of her father's death. Her mother pre-deceased her father on 08.10.2010 itself. The other legal heir of the late employee is the petitioner's brother, who was 11 years at the time of the death of her father. She made an application to the respondents on 24.11.2021, seeking for appointment on compassionate ground and her application came to be rejected through the impugned order dated 07.05.2022, stating that the application has been made after a period of three years, which is



W.P.No.363 of 2023

contrary to the scheme of compassionate appointment. Challenging the same, the present writ petition has been filed.

3. Admittedly, the petitioner was aged only about 13 years at the time of death of her father and apparently she could not have made an application at the relevant point of time. As stated above, her mother also predeceased her father and she had only a younger brother. Soon after she became a major, she had made this application on 24.11.2021.

4. The entitlement to make such an application after expiry of three years has come up for consideration before the Hon'ble Division Bench of this Court in the case of *S.Velraj vs The Superintendent Engineer, TNEB and another in W.A.(MD) No.1400 of 2011* and by order dated *16.12.2015*, the Hon'ble Division Bench had held that the said application made by a minor at the time of death of the employee would be maintainable. Following the said decision, I had taken a similar view in the case of *R.Vishnupriyan vs The State of Tamil Nadu, Rep by Secretary to Government, Social Welfare and Nutritious Meal Programme Department and others* passed in *W.P.No.1866 of 2020* dated



W.P.No.363 of 2023

23.07.2021 in the following manner:-

WEB COPY

“ 5. *The issue as to whether, the respondents are justified in claiming that an application requires to be made within a period of 3 years, when such an applicant is a minor at the relevant point of time, came up for consideration before the Hon'ble Division of this Court in the case of **S.Velraj Vs. The Superintendent Engineer and another** and the Hon'ble Division Bench, in its order **dated 16.12.2015 passed in W.A.No.1400 of 2011**, had set aside the order of rejection, by holding that the requirement for making an application by a minor at the relevant point of time, is not justifiable. The relevant portion of the order reads thus:-*

"3. It is admitted fact that the employee died on 19.03.1992, leaving behind four children and at that time, the appellant is the eldest son, aged about 12 years. If he applied for appointment on compassionate



WEB COPY



W.P.No.363 of 2023

ground at that time, when he was 12 years, his application would have been rejected on the ground that he was a minor and, therefore, on attaining majority, the appellant rightly applied for appointment on compassionate ground. However taking into consideration the plight of the family and also the young age of the mother and other children, it is a case where appointment on compassionate ground has to be given. Three years limitation cannot be applied in strait-jacket formula and each and every case has to be approached differently, based on the facts. Since the eldest son of the family has rightly applied for appointment on compassionate ground, on attaining majority, the respondents have to consider the



WEB COPY



W.P.No.363 of 2023

appellant's application for appointment on compassionate ground.

4. In view of the above, the Writ Appeal is allowed and the order of the learned Single Judge and also the order of rejection for appointment on compassionate ground are set aside and the matter is remanded to the first respondent for fresh disposal, in the light of the judgment passed by this Court. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs."

*6. A similar view was taken by this Court in the case of **C.Muthulakshmi and another Vs. The District Collector, Krishnagiri District and two others** passed in W.P.No.30563 of 2016, wherein this Court has also held that the*



W.P.No.363 of 2023

application by a minor within 3 years after becoming a major, would be maintainable, particularly, when the mother had made an application within a period of 3 years from the date of death of the Government employee.”

5. The aforesaid extracts are self explanatory. Since the petitioner was minor at the time of death of her father, she could not have made an application within three years therefrom. Further more, there was no other legal heir for the deceased employee who could have made an application at the relevant point of time. Hence the stand taken by the respondents by giving a strict interpretation to the beneficial scheme may not be appropriate. This Court has taken note of the fact that the petitioner has lost her parents and has now in the care and custody of her relative. Hence quoting the three years as a pre-requirement for making an application to a beneficial scheme for compassionate appointment, particularly, in the present case, may not be proper.

6. In the light of the above, the impugned order dated 07.05.2022 passed by the second respondent is set aside and consequently, there shall be a



W.P.No.363 of 2023

direction to the first respondent herein to pass appropriate orders appointing the petitioner on compassionate ground to any suitable post to which she would be eligible under the scheme. Such order shall be passed as expeditiously as possible, in any event, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is allowed. No costs.

02.11.2023

Index: Yes/No
Internet: Yes/No
sr



WEB COPY



W.P.No.363 of 2023

To

1. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
“N.P.K.K.R.Maaligai”,
No.144/800, Anna Salai,
Chennai-600 002.
2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Chengai Electricity Distribution Circle,
Chengalpattu,
Chengalpattu District



WEB COPY



W.P.No.363 of 2023

M.S.RAMESH,J.

Sr

W.P.No.363 of 2023

02.11.2023