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W.P.No.7870 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM :
THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P. No. 7870 of 2020

G.Moulin Prasanth

Petitioner

Vs.

1. The Chief Engineer (Personnel)
TANGEDCO,
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Udumalpet Electricity Distribution circle,
TANGEDCO,
Udumalpet.

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, calling for entire records pertaining to the order of the second respondent *vide* his proceedings letter No.16037/434/Nia/Nir.1/udavi.1.Ka.Va.Ve/2019 dated 29.07.2019 and quash the same and thereby direct the respondents to provide appointment to the petitioner on compassionate grounds in any suitable post consequent on the death of his father on 23.05.2015 while in service of the respondents.

For petitioner : Mr.A.R.Suresh
For respondents : Mr.K.Rajkumar
Standing Counsel
for TANGEDCO



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ORDER

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This writ petition has been filed seeking a direction to the respondents to appoint the petitioner on compassionate ground in any suitable post consequent to the death of this father, who died in harness.

2. The petitioner's father was serving as a Mazdoor in the Central stores at Udumalpet. He died in harness on 23.05.2015 leaving behind his wife Thilagam, the petitioner G.Moulin Prasanth and another two sons as his legal heirs.

3. Subsequently, the petitioner had applied for an appointment on compassionate ground. But his application was rejected on the ground that his mother was working as a Supervisor or Superintendent Grade II at Udumalpet Child Development Centre and she was relieved from the post of Anganwadi worker on 02.04.2018, thereby rejecting his consideration for appointment on compassionate ground.

4. In the counter affidavit of the respondents, the respondents stated that as per the Board proceedings in B.P.No.330 (Administrative Branch),



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dated 02.11.1993, G.O.Ms.No.155 Labour and Employment Department

dated 16.07.1993 which is read as under:

"It is considered that if a member of the family is already in employment and supports the family then the restriction that if there is already any earning member in the family of the Government servant who died in harness, the other dependents of the deceased Government servant will not be eligible for compassionate appointment may be applied. When a dependent of the family is employed, the factors to be ascertained are, whether he is regularly employed and is actually supporting the family. If that person was employed even before the death of the Government servant and was living separately without extending any help to the family then the case of other eligible dependent will be considered."

5. The learned counsel for the petitioner submitted that the petitioner's mother was a part time employee and he relied upon the judgment of a Division Bench of this Court dated 28.03.2022 in *R.Tirupathi vs The Chairman cum Managing Director and others* (W.A.No.599 of 2022), wherein it is held that part time employment cannot be interpreted that, a person is employed on a permanent basis. As long as, the other dependents of the deceased employee, who are in employment are not in a permanent job, beneficial interpretation has to be given to B.P.(Ch) No.330, dated 02.11.1993 and the petitioner should be considered for compassionate appointment.



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6. The learned Standing Counsel appearing for the respondents attracted attention of this Court to FB TANGEDCO Proceedings No.11 dated 11.06.2020, which is applicable to the facts of the case. According to him, compassionate appointment will not be considered if the member of the deceased family is already in regular employment.

7. The learned counsel appearing for the petitioner submitted that, the petitioner did not deny the fact that his mother was working as a Anganwadi worker. Only at the later point of time i.e., in the year 2018 she was promoted to the post of Supervisor or Superintendent Grade II at Udumalpet Child Development Centre. Further the Director ICDSS, Dharapuram has issued a certificate and stated that the petitioner's mother was occupying only a part time post and her appointment was never a full time employment. For the purpose of considering the petitioner for compassionate appointment, the status of the family as on the date of death of the employee has to be taken into consideration. Further more, as on the date of death of the deceased employee, the petitioner's mother was only a part time Anganwadi worker and even according to the submissions made by the learned counsel for the respondents, the benefits cannot be extended



when there is already an earning member in the family of the deceased, Government servants. Even in that case, if the deceased, employed member of the deceased Government servant's family has been living separately without extending financial help to other members, the case of other eligible dependents for appointment can be considered.

8. The object of providing compassionate appointment for any one of the dependents of the deceased employee is to secure the family from sudden loss of income and discomfort suffered by the family of the deceased. Even though the mother of the petitioner was earning a meager pay as in her capacity as a Anganwadi worker, the deceased Government employee had three sons and the petitioner is the eldest of all. During the death of the employee, the mother of the petitioner was only a part time Anganwadi worker and the said facts have been confirmed by the respondents themselves, with the documents available.

9. In such case it is not fair on the part of the respondents to deny the benefits claimed by the petitioner for compassionate appointment. In the judgment relied on by the counsel for the petitioner, it is clearly held that the part time employment cannot be interpreted as an employment on



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permanent basis.

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In view of the above stated reasons, the order passed by the second respondent in letter No.016037/434/Nia/Nir.1/udavi.1.Ka.Va.Ve/2019 dated 29.07.2019 is hereby set aside and the respondents are directed to provide appointment to the petitioner on compassionate grounds in any suitable post.

Accordingly, this Writ Petition stands allowed. No costs.
Consequently, connected writ miscellaneous petition is closed.

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vca

Index : Yes/No

Speaking Order : Yes/No

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