



W.P.No.6780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6780 of 2023
and W.M.P.Nos.6874 & 6875 of 2023

N.Logeswaran

.. Petitioner

Vs.

1. The Chairman-cum-Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-600 002.
2. The Chief Engineer/Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Erode Electricity Distribution Circle,
E.V.N.Road, Erode:638 009

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other order or direction in Writ to call for the records in pursuant to the impugned order passed by the 2nd respondent Chief Engineer/Personnel in LETTER NO.027012/167/G.64/G.642/2019-4, DATED :06.06.2022 and quash the same and consequently direct the 2nd respondent Chief Engineer Personnel to re-consider the petitioner's candidature for compassionate appointment in the light of Board Proceeding No.9 (Adm.Br), Dated -0910.105 in para no.4 (i) and issue necessary compassionate appointment order to the petitioner.

For petitioner : M/s.R.Muralikrishnan
For Respondents : Mr. L.Jaivenkatesh,
Standing Counsel

ORDER

This Writ Petition has been filed for quashment of the impugned order dated 06.06.2022 which was passed by the 2nd respondent and for a direction to the 2nd respondent to re-consider the petitioner's candidature for compassionate appointment in the light of Sub Clause 1 of Para No.4 of the Board proceeding dated 9.10.2015.



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2. Mr. L.Jaivenkatesh, learned Standing Counsel takes notice for respondents.

3. It is the case of the petitioner that the petitioner's father namely P.Nallasamy who was working as Inspector of Assessment in Tamil Nadu Generation and Distribution Corporation Ltd, died in harness on 17.04.2009 during his service in the above Corporation leaving behind the petitioner who was 12 years old at that relevant point of time. In the year 2016, the petitioner's mother had submitted application for compassionate appointment. However, the said application was rejected on the ground that it has not been submitted within a period of three years from the date of death of the deceased. Challenging the same, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that though the petitioner's application for compassionate appointment was rejected on the ground that application for compassionate appointment was not submitted within a period of three years from the date of death of the petitioner's father however, it is contrary to sub-clause 1 in para 4 of the Board Proceedings



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which was issued by the 2nd respondent on 09.10.2015. As per the said Board Proceedings the petitioner is eligible for the compassionate appointment. Hence, the present impugned order is liable to be interfered with.

5. On the above contention, this Court heard the learned Standing counsel appearing on behalf of the respondents and perused the materials available on records.

6. The issue involved in the present case is *no longer res integra* as the similar issue was already considered by this Court in W.P.(MD).Nos.7016 of 2011 batch, wherein, this Court had categorically held that the compassionate appointment on the demise of the sole bread earner of the family cannot be claimed by the dependant of the deceased as a matter of right. The relevant portion of the order is extracted here as under:-

“17. In Umesh Kumar Nagpal V.State of Haryana [(1994) 4 SCC 138;1994 SCC (L&C)930;(1994) 27 ATC 537], while emphasising that a compassionate appointment cannot be claimed as a matter of course or in posts above Classes III and IV, this Court had observed that:(SCC p .140, para 2)

“2. ... The whole object of granting compassionate



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*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.*

18. Similarly, in *SAIL v. Madhusudan Das* [(2008) 15 SCC 560 : (2009) 2 SCC (L&S) 378] this Court has observed that : (SCC p.566, para 15)

“15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be treated as a matter of right. It must be provided for



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in the rules. The criteria laid down therefor viz., that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken in to consideration. Articles 14 & 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said rule. It is a concession, not a right."

In view of the above decision, the application not being submitted within the period of three years, was rightly dismissed. Moreso, the compassionate appointment is given only for the purpose of meeting the urgent financial constraints of the bereaved family and is not a source of employment. The petitioner cannot wait to attain the age of majority to claim the compassionate appointment as a matter of right and granting the same would defeat the very purpose of compassionate appointment. Therefore, the relief sought for in this Writ Petition cannot be granted and accordingly the prayer sought for in this Writ Petition deserves to be rejected. Hence, the prayer sought for in this Writ Petition cannot be acceded to.



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7. For the reasons aforesaid, this Writ Petition is devoid on merits

and the same is dismissed. There shall be no order as to costs.

Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No

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