



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.10068 of 2021
& W.M.P.No.10703 of 2021

B.Barani

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Petitioner

versus

1.The Chief Engineer (Establishment),
TANGEDCO,
No.144, Anna Salai,
Chennai - 2.

2.The Superintending Engineer,
TANGEDCO,
General Construction Circle,
Kamaraj Nagar Colony,
Athur Bypass Road, Salem -14.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records connected in Lr.No.11718/May.Po/Po.Ka.Va/Salem/Ni.Pi1/Ni.Vu2/Ko.Va.Vay/2019 dated 31.01.2019 and Lr.No.6860/May.Po/Po.Ka.Va./Se/Nipi.1/Ni.vu2/Ko.Varisuvelai/2020, dated 23.11.2020 of the 2nd respondent and quash the same and consequently direct the respondents to appoint the petitioner on compassionate ground in any one of the vacancies.

For Petitioner

:

Mr.K.Arumugam
for Mr.L.Raghavan



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For Respondents : Mr.K.Rajkumar
Standing Counsel for TNEB

ORDER

The petitioner has filed this petition seeking to quash the impugned orders dated 31.01.2019 and 23.11.2020 of the 2nd respondent and consequently direct the respondents to appoint the petitioner on compassionate ground in any one of the vacancies.

2. Heard Mr.K.Arumugam, learned counsel for the petitioner, Mr.K.Rajkumar, learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner is the son of the deceased Balu, who was working as Grade-I Maistry with the respondent Board. Balu died in harness on 12.09.2013 leaving behind his wife Renuka and his only son Barani. Since the family of Balu was perplexed due to the immediate demise of the breadwinner of the family, the wife of Balu had submitted an application on 06.01.2016 to the respondents by requesting them to provide compassionate appointment to her son who is the petitioner herein. Despite the representation was kept pending for 3 years, on 23.11.2020 the same was



dismissed by stating that the representation was not made within 3 years in the prescribed form and that the petitioner was just 13 years and was a minor at the time of the death of Balu.

4. Mr.K.Arumugam, learned counsel for the petitioner submitted that the representation of the petitioner ought to have been considered on compassionate manner and the petitioner could have relaxed the rule regarding the age of the petitioner. He further submitted that the mother of the petitioner had given the representation within the prescribed period of 3 years and hence there is no violation in that aspect.

5. Mr.K.Rajkumar, learned Standing Counsel for the respondents submitted that the petitioner was under age at the time of death of his father. As on date when the application was made, the petitioner was a minor and he had attained majority only on 05.10.2018. So any application that might be made by him after his attaining majority would be barred by 3 years because the father of the petitioner died on 12.09.2013 itself. The respondents have rightly considered the application of the petitioner within the parameters of the regularisation made in this regard and had rightly



dismissed the same. Since the respondent Board had framed the regularisation only with the directions of the Court, no deviation can be made by violating the rules.

6. There is no quarrel on the point that the deceased Balu was covered under the compassionate appointment scheme. Hence any eligible family member of the deceased is entitled to avail an appointment under the compassionate appointment scheme. Unfortunately, the petitioner was a minor at the time when his father died. However his mother had made an application and the application was kept pending until the year 2019. During which time, the petitioner himself has become a major and was eligible to be appointed.

7. Had the 2nd respondent rejected the application before the petitioner attained majority, or within 3 years from the date of the death of the father of the petitioner, it could have been a different game. The application was kept pending until the petitioner has attained majority and thereafter only the application was taken up for consideration. On the date of considering the petitioner's mother representation, which was made



within the period of 3 years, the petitioner was qualified to get the compassionate appointment.

8. Since the compassionate appointment scheme itself was framed just to save the family of the deceased employee from poverty, the respondents need not apply the clutches that strongly on technicalities. It is within the the discretion of the respondents to relax the rules with regard to the age or other parameters, in accordance with the exclusive family situation of the deceased employee and that might differ from case to case.

9. In this regard, it is relevant to cite the judgment of the Hon'ble Supreme Court held in **Chief Engg. T.N.Electricity Board & Anr. Vs. Indiraniammal in C.A.No.2039 of 2006** wherein the Hon'ble Supreme Court has set aside the judgment of the Division Bench of this Court wherein the entitlement of the petitioner to get a compassionate appointment subsequently attaining majority was rejected. The relevant portion of the said judgment would read as under:-



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“The Division Bench of the High Court has reversed the judgment of the learned Single Judge only on the ground of delay who directed compassionate appointment to the appellant. The appellant was a minor at the time of the death of his father and since the mother of the appellant applied within time. We are of the opinion that the appellant after becoming major should have been granted compassionate appointment.”

10. It is not the claim of the respondents that either the petitioner's mother or any member of the family was working elsewhere or in the Department and was earning money for a better livelihood. Except the family pension which was given to the wife of the deceased, the family is left with no other source of income. Even in those families where there is any eligible member to get a compassionate appointment, family pension is not denied. So getting the family pension by the spouse of the deceased cannot be the only reason to not consider the indigenous circumstances of the family of the deceased. In fact, the rejection has not stated anything about the economical self sufficiency of the petitioner and considered it as a reason for rejection.



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11. It is seen that the mother of the petitioner was prompted to give the representation within a period of 3 years from the date of death of her husband and that can be considered as representation given within a period of 3 years. So far as the minimum age requirement of the petitioner is concerned, the respondents shall consider his attainment of majority at the time when the application itself is taken up for consideration and the impugned order is passed. If required the rules if any can be relaxed by considering the petitioner's case as a special case and consider the representation of the petitioner afresh by passing an order favourably by accommodating him in anyone of the post on compassionate scheme.

With the above observation, this Writ Petition is **disposed** and the orders passed by the second respondent in Lr.No.11718/May.Po/Po.Ka.Va/Salem/Ni.Pi1/Ni.Vu2/Ko. Va.Vay/2019 dated 31.01.2019 and Lr.No.6860/May.Po/Po.Ka.Va./Se/Nipi.1/Ni.vu2/Ko.Varisuvelai/2020, dated 23.11.2020 are hereby set aside and the respondents are directed to provide suitable employment to the



petitioner on compassionate scheme as expeditiously as possible. No costs.

Consequently, connected Miscellaneous Petition is closed.

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21.12.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

W.P.No.10068 of 2017
& W.M.P.No.10703 of 2017



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R.N.MANJULA, J.

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