



W.P.No.40463 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 16.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Writ Petition No.40463 of 2015

A.Nethaji

S/o Late V.Annadurai

... Petitioner

Vs.

1.The Chairman

TANGEDCO

144, Anna Salai

Chennai – 2.

2.The Superintending Engineer

Electricity Distribution Circle

TANGEDCO, Kallakurichi

Villupuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in proceedings No.Ka.No.2845/Adm.2/Ni5/Loo.Va.V/2015 dated 07.09.2015 and quashes the same and direct the respondent Board to provide job assistance.



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For Petitioner : Mr.B.Manoharan

For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

This Writ Petition has been filed, challenging the order dated 07.09.2015 in Ka.No.2845/Adm.2/Ni5/Loo.Va.V/2015, whereby the claim made by the petitioner for compassionate appointment was rejected.

2.According to the petitioner, his father – V.Annadurai, was employed as Mazdoor in the office of the 2nd respondent and suddenly due to ill health, he passed away on 20.11.2010. At the time of death of the petitioner's father, he left behind his wife – Adhilakshmi, daughter – Keerthana and younger son – Arulmurugan, as his legal heirs. The petitioner was aged 13 years, at the time of death of his father. After the petitioner's father's death, his mother was unable to maintain the family without any income. Since the petitioner's mother studied only upto 3rd standard, the petitioner herein sent his representations to the 2nd respondent – Board on 18.09.2013 and 08.07.2015, seeking appointment under compassionate ground along with necessary documents. However, the 2nd respondent, vide

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letter Ka.No.2845/Adm.2/Ni5/Loo.Va.V/2015 dated 07.09.2015 rejected the claim of the petitioner, on the ground that he was not completed 18 years of age as on the date of applying for the compassionate ground.

3.The learned counsel appearing for the petitioner would bring to the notice of this Court to the order passed by this Court in W.P.No.16465 of 2008, dated 16.08.2013, wherein, this Court has held that in matters like this, the Board cannot be allowed to raise technical objections when facts are admitted that the deceased employee died while performing his duties and that the family is still in indigent circumstances and further directed the respondent Board to provide job assistance. He would also bring to the notice of this Court to the order passed by this Court in W.P.No.23101 of 2012, dated 09.09.2014, wherein this Court directed the respondent Board to settle death-cum-terminal benefits and also to pay family pension and further directed to provide job assistance to the legal heir of the deceased employee. Relying on the said orders, the learned counsel would submit that the petitioner would be satisfied, if his case for compassionate appointment, is directed to be considered by the respondents and appropriate orders be



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passed, in the light of the orders passed by this Court in W.P.No.16465 of 2008, dated 16.08.2013 and W.P.No.23101 of 2012, dated 09.09.2014.

4.The learned Standing Counsel appearing for the respondents would submit that the Scheme of Compassionate Appointment was introduced by the Tamil Electricity Board for providing Employment assistance to the dependent of the deceased employees, who are in most penurious circumstances by adopting the rules of compassionate appointment issued by the Government of Tamil Nadu vide its Government orders. It is settled proposition of law that the scheme or the rule that was prevalent on the date of demise of the deceased employee alone will govern the scheme of compassionate. In the instant case, the petitioner's father died on 20.11.2010. The 2nd respondent Board sent the prescribed format to the petitioner's mother to enable her to send an application for employment under compassionate ground. However, the petitioner's mother did not choose to reply for the above stated letter of the 2nd respondent for a considerable time. Finally, the petitioner has sent his representation seeking appointment under compassionate ground on 08.07.2015, at that time, he



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has not completed the age of 18 years.

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5.The learned Standing Counsel would further submit that the Government of Tamilnadu, for the very first time, vide its G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995, prescribed and imposed a limitation period of three years time limit from the date of death of deceased for submitting application for compassionate appointment. Following the aforesaid G.O, the Electricity Board issued proceedings in B.P.Ms.(FB)No.46 Administrative Branch dated 13.10.1995 adopting the said G.O.Ms.No.120 dated 26.06.1995 and Para No.3 of the said Board Proceedings reads thus:

"3. The Board has decided to adopt the order of the Government, accordingly, the following modification of the existing scheme of providing employment assistance to the dependents of the deceased employees of the Board is ordered.

1. The application for appointment on compassionate ground should be made within three years from the date of death of employees of the Board.



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2. The maximum age limit for such appointment is raised to 50(fifty) years in the case of the widows of the deceased employees of the Board.

3. In the event of already expired staff while in service the dependent should apply for employment assistance within three years from the date of issue of this order."

6.Further, as per Memo No.019991/127/G9/G92/2013 – 1 dated 06.03.2013, the applicant seeking compassionate appointment should have completed 18 years at the time of giving the application. However, in this case, the petitioner did not complete 18 years, at the time of submitting his application. Therefore, the learned counsel prayed to dismiss the Writ Petition.

7.Admittedly, as per the B.P.Ms.(FB) No.46 dated 13.10.1996, if the death of employee of the Board occurred on or before 13.10.1995, then the period of three year time limit will commence only from 13.10.1995 due to the Board proceedings made in B.P.Ms.(FB)No.46 Administrative Branch.



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Subsequently, the Board by Memo No.147941/921/ R.6(2)/96 dated 14.06.1997 issued a clarification to B.P.Ms.(FB) No.46 dated 13.10.1996 as

under:

"As per the B.P.(FB.)No.46, dated 13.10.1995, the legal heirs of the deceased employee shall give application within 3 years from the date of death of Board Employee as mentioned in the letter under reference cited. (2) Board employees who died prior to implementation of B.P.No.46 dated 13.10.1995 the legal heirs of the deceased employee shall apply for employment assistance within three years from the date of issue of the said B.P. (3) If the applicants who applied for employment assistance within 3 years from the date of death and not completed 18 years of age, such cases will be requested to apply again after completion of 18 years of age. (4) If the applicants applied again after completion of 18 years of age, the applicants will be intimated that such applications will be examined as per the Board's Rules in force at that time".



8.In the case on hand, both the petitioner and his mother sent representations to the Board well within the time. It is pertinent to note here that the application submitted by the petitioner after attaining majority could not be said to be belated. In the case relied on by the learned counsel for the petitioner in ***J.Jebamary Vs. Chairman TNEB*** reported in **2011 (3) LLN 405**, his Lordship Justice Paul Vasanthakumar J., as he then was, referred to several Judgments of this Hon'ble Court as well as the Hon'ble Apex Court and in paragraph 13 of the Judgment states as follows:-

13.From the above referred decisions passed by this Court in series of cases on the same ground, it is evident that the similar grounds raised by the respondents that the petitioner has not filed Application seeking compassionate appointment within three years from the date of death of her father and that she has not completed 18 years of age within three years are not valid grounds to deny appointment on compassionate ground as no one in her family is employed and the family of the petitioner is in indigent circumstance even today as certified by the Revenue Officials. Petitioner's mother and petitioner are prosecuting the matter



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before the respondents right from July, 1992.”

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9.In such circumstances, it is a deserving case where the respondents should have shown some compassion, while considering the petitioner's application for compassionate appointment. Unfortunately, the respondents did not seem to have shown any compassion at all and mercilessly rejected the petitioner's application on a hyper technical ground. Further, rejecting the claim of the petitioner by the respondents 1 and 2 on the basis of age limit is against the spirit of the board proceedings dated 13.10.1995.

10.For all the reasons stated above, this Court is of the view that the claim of the petitioner seeking compassionate appointment cannot be rejected. Accordingly, the order impugned in this Writ Petition is set aside. The respondents are directed to pass appropriate orders providing suitable employment to the petitioner on compassionate ground. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.



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11.In the result, this Writ Petition stands allowed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
Neutral citation:Yes/No
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To
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Chennai – 2.

2.The Superintending Engineer
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