



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.38197 of 2016
and
W.M.P.No.32747 of 2016

M.Pandiyan

.. Petitioner

Vs.

1.The Chairman

Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai – 2.

2.The Chief Engineer (Personnel)

Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai – 2.

3.The Superintending Engineer

Thiruvannamalai Electricity Distribution Circle
Thiruvannamalai District.

4.The Executive Engineer (O&M),

Tamil Nadu Generation and Distribution Corporation Ltd.,
Vandavasi.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records made in the impugned order of the 2nd respondent in



Let.No.008282/76/G8/G81/2012-3 dated 16.11.2012 and to quash the same and further direct the respondents to provide suitable employment to the petitioner on compassionate ground and sanction Family Pension and Death cum Retirement benefits in the light of the order passed in W.P.No.23101/2012.

For Petitioner .. Mr.S.N.Ravichandran

For Respondents .. Mr.K.Rajkumar, Standing Counsel

ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus seeking the records relating to an order of the 2nd respondent, Chief Engineer (Personnel) TANGEDCO, Chennai dated 16.11.2012 and to quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate ground and also sanction family pension and death cum retirement benefit in the light of the order passed in W.P.No.23101 of 2012 dated 09.09.2014.

2.In the affidavit filed in support of the writ petition, it had been stated that the father of the petitioner, Manickam, was working as Contract Labourer from the year 1979 in the Tamil Nadu Electricity Board in the office of the Junior Engineer (O&M) Construction, Thiurvannamalai



Electricity Distribution Circle. It was contended that the father of the petitioner was working continuously without any break in service. However, his name was omitted in the Justice Khalid Committee Report. He was therefore not absorbed as Helper, while his juniors were absorbed. It had been stated that the father of the petitioner was identified on 08.08.1998 and also in 2007 as a Contract Labourer and was also paid Diwali bonus. He was then appointed as temporary casual labourer by memo dated 05.02.2008. His monthly salary was Rs.70/- per day. Unfortunately, he died on 01.05.2008.

3.The petitioner claims that he was in indigent circumstances and therefore sought appointment on compassionate basis. It was stated that there was a large family and besides him, his mother and sisters and his grandparents were there and therefore, the financial difficulties of the family made it necessary for the petitioner to be appointed on compassionate basis. The petitioner made a representation and the same came to be rejected by the impugned order on the ground that the father of the petitioner was not in regular employment under the respondents.



4. In the counter affidavit of the 3rd respondent, it had also been stated that the petitioner had sought compassionate appointment after a period of 9 years, 2 months and 17 days, only on 29.05.2013 after the death of the father who died on 12.03.2004. It is also stated that compassionate appointment can be granted only to overcome the immediate financial difficulties of the family. It had also been stated that the father was not in regular service and therefore the said reference cannot be granted by the respondents.

5. One factor which turned out for discussion in the entire issue is that the father of the petitioner, who was appointed by a memo dated 06.02.2008 was identified as one of the Contract Labourer and appointed by the respondents. The said memo is extracted in entirety:

“15 Nos Contract Labourers furnished in the enclosed list have been allotted to this Division for appointment as Contract Labourers.

They are declared as bonafide Contract Labourers by the Committee formed by the Board. They are appointed as Contract Labourers and they shall be engaged directly on need basis and they will be paid Rs.7/- per day of attendance.

They are reposted to the Sections noted against each.



They should submit the Original Certificates before joining duty.

They are also informed that Contributory Pension Scheme for them will be implemented with immediate effect.

They should join duty to the Officers concerned immediately

Sd/-

Executive Engineer(O&M) ”

6.A reading of the same shows that if there is need, the father would be engaged directly. It is also seen that Contributory Pension Scheme would be applicable to the father of the petitioner herein.

7.It is also pointed out by the learned counsel for the petitioner that in the annexure, in the list of those who had been so similarly identified, except the father Manickam who died, all the others had been brought into regular service. It is also contended that if the father had continued in service, and had not died, he would have been brought into the regular service. The reason advanced by the respondents that the father was not in regular service has to be rejected since it was fate which snatched away his life before his services could be regularized.



WEB COPY

8. The other aspect is about the delay in giving representation by the petitioner herein. In this connection, it must be pointed out that the issue of delay had not been mentioned in the impugned order. It is contended by the learned counsel for the petitioner that necessary application was given within a period of three years from the date of death of the father.

9. This statement is however, contested on the side of the respondents, whose records reveal that such application was not given within a period of three years. Therefore, this Court can never come to any definite conclusion with respect to the date on which the first application was so given.

10. It is however now been brought to the notice of this Court, that the petitioner herein had been appointed as Gang Man (Trainee) through direct recruitment by letter dated 04.03.2021. It is contended that he is still working on consolidated pay. The petitioner would therefore necessarily have to comply with the terms of such employment. His eligibility and suitability would be determined and therefore, the respondents may take an appropriate decision not only with respect to the petitioner herein, but also



with respect to the other 65 Gang Man (Trainee) who had been appointed along with the petitioner herein.

11.I am confident that the respondents would pass appropriate orders. However, the learned counsel for the petitioner states that if the petitioner is appointed on compassionate ground, then instead of being appointed as Gang Man (Trainee), the petitioner would be appointed as Helper. But the issue of compassionate appointment can be examined by this Court only if the Court is of the definite opinion that the initial application was given within a period of three years.

12.This is one statement given on the side of the petitioner, which is controverted by the respondents, who contended that delay is a factor to be considered against the petitioner herein.

13.I would therefore keep that issue open and direct the petitioner herein to given a fresh representation giving the date on which he had given the first representation. The respondents may examine their records and also pass necessary order on that particular representation and verify the date



mentioned by the petitioner herein. Till such time the petitioner may work as Gang Man (Trainee) and in accordance with the service conditions of the Gang Man (Trainee) and depending on the orders passed in the representation, the petitioner may be considered for appropriate appointment. From the date of receipt of a fresh representation, the respondents may examine their records and pass necessary orders within a further period of six weeks.

14. With the above observations, this writ petition stands disposed of.

No costs. Consequently, connected writ miscellaneous petition is closed.

25.09.2023

smv

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Speaking order: Yes/No



To

1. The Chairman

Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai – 2.

2. The Chief Engineer (Personnel)

Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai – 2.

3. The Superintending Engineer

Thiruvannamalai Electricity Distribution Circle
Thiruvannamalai District.

4. The Executive Engineer (O&M),

Tamil Nadu Generation and Distribution Corporation Ltd.,
Vandavasi.



WEB COPY



10

C.V.KARTHIKEYAN,J.

smv

W.P.No.38197 of 2016

25.09.2023