



WEB COPY



WP.No.16898 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.12.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.16898 of 2021

S.Govindarajan

...

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,
Krishnakiri Electricity Distribution Circle
Kirshnakiri District. ...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a WRIT OF CERTIORARIFIED MANDAMUS Calling for the records made in the impugned order of the 3rd respondent in Let.No.01775/236/Ne.P1/U3/Varisu Velai (Po)/2020 dated 27.07.2020 and QUASH the same and DIRECT the respondents to provide suitable employment



WP.No.16898 of 2021

to the petitioner on compassionate ground and sanction family pension and death cum retirement benefits.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

The petitioner has filed this Writ Petition seeking a Writ of Certiorarified Mandamus to set aside the impugned order of the 3rd respondent in Let.No.01775/236/Ne.P1/U3/Varisu Velai (Po)/2020 dated 27.07.2020 and to direct the respondents to provide suitable employment to the petitioner on compassionate ground and sanction family pension and death cum retirement benefits.

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

3. The petitioner's father, by name N. Settu, was working as a contract labourer on 29.11.1979 in the respondent's board. He was identified on



08.08.1998 as a Contract Labour and on the basis of (Per) B.P. (FB) No. 44 dated 06.09.2007 he was eligible for regular absorption in the Board. He was appointed as Temporary Casual Labour at Dharmapuri Electricity Distribution Circle vide a memo dated 05.02.2008 and he was paid a salary of Rs.70 per day. While he was in service, he died on 02.11.2008, leaving the petitioner, his wife and his mother and sister as his legal heirs. The petitioner's father was the only breadwinner of the family; after his demise, the petitioner's family was unable to maintain the family. Hence, the petitioner made a representation on 17.04.2010 requesting a compassionate appointment. Since the same was denied by an impugned order dated 27.07.2020, he has filed this Writ Petition, challenging the same and seeking direction.

4. Mr. S.N. Ravichandran, the learned counsel for the petitioner submitted that, as per clause 2(ii) of FB TAGEDCO Proceedings No. 11, dated 11.06.2020, the dependents of temporary appointees are not eligible for appointment on compassionate grounds. However, the said board proceeding can be applied only prospectively and it will not be applicable to past cases.

5. The attention of this Court was drawn to the various earlier orders of this Court wherein directions have been given to consider the appointment on



WP.No.16898 of 2021

compassionate appointment.

WEB COPY

6. Mr.K.Rajkumar, learned Standing Counsel for the respondents submitted that as per (Per) B.P.(FB)) TAGEDCO Proceedings No. 12 dated 08.05.2013 the appointment on compassionate ground to the legal heirs of the bona fide contract labourers who died due to electrical accident only is available.

7. The above Board proceeding states that the said contract labourer who could have had the possibility of continuing service by absorbing as a permanent employee and hence, the scheme of compassionate appointment can be applied to them.

8. In the case in hand also the petitioner's father was 47 years old and he died due to heart attack. Had the petitioner's father continued to be in service, he could have absorbed permanently. Even though the Board proceedings TANGEDCO proceedings No.12 dated 08.05.2013 is said to be applicable to those contract labourers who died due to electrocution, the order does not place



any bar to provide such compassionate appointment to other identified contract labourers for whose benefit under (Per)B.P.(FB) No.44 dated 06.09.2007 was issued.

9. The 3rd respondent did not deny the fact that the petitioner's father is covered under (Per)B.P.(FB) No.44 dated 06.09.2007. The only for the reason on which the request of the petitioner got rejected is that the father of the petitioner was not covered under the compassionate appointment scheme. In fact in (per) BP.(FB) No.44 dated 06.09.2007, in respect of the settlement for absorption with the contract labourers the following term was incorporated:

“5.Based on the report of the Committee, the Circle wise list of Contract Labourers with reference to date of entry will be arrived at and 6000 Contract Labourers will be appointed as TCLs with effect from 01.12.2007 for a period of one year and then they will be absorbed as Mazdoor in the scale of pay with effect from 01.12.2008. “

10. It is not in dispute that the petitioner's father was employed as a Temporary Casual Labourer. Had he was alive for another 10 to 11 months, there is every assurance that he would have been absorbed as a Mazdoor with



effect from 01.12.2008. Since the petitioner's father died unfortunately, he lost the opportunity of getting absorption in the board services. Until the passing of latest Board proceedings in (Per) B.P.(FB) TANGEDCO Proceedings No.11, dated 11.06.2020, there is no explicit bar to extend the benefit of compassionate appointment to similarly placed contractual labourers who are covered under (Per) B.P.(FB) No.44 dated 06.09.2007, in case they died due to any other reason other than electrocution.

11. As rightly pointed out by the learned counsel for the petitioner the (Per.) B.P.(FB) TANGEDGO Proceedings No.11 dated 11.06.2020 can be given only with prospective effect. The petitioner's father had died earlier and in cases of similarly placed persons the orders have been passed by this Court every now and then for granting compassionate appointment. Hence, I feel that the same benefit can be extended to the petitioner also.

12. In this regard it is relevant to cite the judgement of this Court dated 01.12.2010 in WP.No.26461 of 2010 wherein the following direction has been given:



WEB COPY

“3 The learned counsel for the petitioner submits that as per (Per) B.P. (FB) No.44, dated 6.9.2007, contract. labour will initially appointed as TCL and on completion of one year, they will be absorbed as mazdoors in the scale of pay w.e.f. 1.12.2008. Only due to the administrative delay of the respondents, the petitioner's husband was not regularised and the same cannot be put against the petitioner's husband. The learned counsel also submits that regarding the qualification, the petitioner is fully qualified and therefore be the petitioner need not get any relaxation.

4.4. The above submission was not disputed by the learned counsel for the respondents.

5. In similar circumstances, the Division Bench of Madurai High Court in Writ Appeal (MD) No.717 of 2008, by judgment dated 13.11.2009, granted relief to similarly placed persons.

6. Following the said Division Bench decision, the impugned order dated 5.1.2010 passed by the third respondent is set aside and the respondents are directed to provide suitable employment to the petitioner on compassionate ground and consequently grant family pension and other benefits.”



WP.No.16898 of 2021

WEB COPY

13. So, it is not fair on the part of the respondents to invoke the latest (Per.) B.P. (FB) TANGEDGO Proceedings No.11 dated 11.06.2020 and deny denied the appointment to the petitioner on compassionate appointment.

14. In view of the above stated reasons the impugned order of the 3rd respondent in Let.No.01775/236/Ne.P1/U3/Varisu Velai (Po)/2020 dated 27.07.2020 is set aside and the 2nd respondent is directed to reconsider the representation of the petitioner pass orders within a period of six weeks from the date of receipt of copy of this order.

With the above observation, this Writ petition is **disposed**. No costs.

20.12.2023

Index : Yes /No
Internet : Yes/No
Speaking:Non-Speaking
Neutral:yes/No
jrs



WP.No.16898 of 2021

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,
Krishnakiri Electricity Distribution Circle
Kirshnakiri District.



WEB COPY



WP.No.16898 of 2021

R.N.MANJULA,J

jrs

W.P No.16898 of 2021

20.12.2023