



WEB COPY



W.P.No.16766 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.16766 of 2021

Tmt.K.A.Vanitha

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai, Chennai 2.

2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai, Chennai 2.

3.The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Krishnagiri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records made in the impugned order of the third respondent in Let.No.002160/199/May.Po/Ne.P1/U4/Varisu Velai/2021 dated Nil 07.2021, signed on 16.07.2021 and quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate ground and sanction family pension and death cum retirement benefits.



W.P.No.16766 of 2021

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.K.Rajkumar,
Standing Counsel for TNEB

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus to call for the records made in the impugned order of the third respondent in Let.No.002160/199/May.Po/Ne.P1/U4/Varisu Velai/2021 dated Nil 07.2021, signed on 16.07.2021 and quash the same and 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, learned Standing Counsel for the respondents.

3. The husband of the petitioner was working as a Contractual Labour from 01.04.1993 of the respondents' Board and he died in harness on 16.02.2010. However, the respondents have chosen to reject the petitioner's request for compassionate appointment on the ground that



W.P.No.16766 of 2021

the husband of the petitioner is only a Temporary Casual Labour and hence the scheme of providing compassionate appointment is not applicable to the petitioner.

4. However, the learned counsel for the petitioner has drawn the attention of this Court to the order of this Court, in W.P.No.38243 of 2016, dated 27.07.2023, in the case of ***R.Arunkumar Vs. The Chairman, TANGDCO Ltd., Chennai.*** In the said order, this Court has observed clearly in paragraphs Nos.20 & 23 as under:

“20. In this connection, strong reliance is placed on the judgment of the Hon'ble Supreme Court reported in 2023 (1) SLR 774, in the case of Kirloskar Brothers Limited Vs. Ramcharan and others. That was a case where an application had been made for absorption in service by those who were contract Labourers. The consistent of the Courts below were reversed by the Hon'ble Supreme Court. In that particular case, one defining factor was that the 7th respondent was the named contractor. The Hon'ble Supreme Court observed that contract of service between that



WEB COPY



W.P.No.16766 of 2021

particular contractor/7th respondent and those who sought permanent employment, was a subsisting contract and that contract between the contractor and the employees had not been declared void under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. It was specifically found that the particular enactment namely the Contract Labour (Regulation and Abolition) Act, 1970, was a Central Government enactment and reliance placed by the Courts below on a State Legislation was not proper in view of Article 154 of the Constitution of India. Therefore, the claim of the employees to be regularized was rejected, by holding that they had a valid contract, which was not declared void or illegal under the provisions of the aforementioned Act. It was held that since such declaration had not been made, their obligation was only with the contractor and not with the employer.

23. One of the issues framed for consideration was whether the father of the petitioner herein was an employee of the respondents. This issue was direct. This issue was straight forward. It examined whether there was a



WEB COPY



W.P.No.16766 of 2021

relationship of employer/employee between the respondents herein and the father of the petitioner herein.”

5. It is submitted by the learned counsel for the petitioner that in the above case also, the issue revolves around the death of an employee who was a contractual labour, and for whose legal heir, the benefit of compassionate appointment was found to be available.

6. The learned Standing Counsel for the respondents submitted that the petitioner is not eligible for compassionate appointment in view of the respondent's Board Proceedings No.11 dated 11.06.2020 which are extracted hereunder:

"Persons whose legal heirs are not eligible for consideration under compassionate ground appointment:

(i) Persons who are retained in service under Fundamental Rule 56(1) (c) after the date of superannuation.

(ii) Persons who are under temporary appointments, consolidated pay, daily wages, contract



W.P.No.16766 of 2021

WEB COPY

*appointments and whose services are not regularised
including part time conservancy workers.*

*(iii) Persons who do not come under regular time
scale of pay."*

7. However the petitioner claims that similar such person has already been given with the benefit of compassionate appointment in view of the order passed by this Court in W.P.No.38243 of 2016, dated 27.07.2023, in the case of ***R.Arunkumar Vs. The Chairman, TANGDCO Ltd., Chennai.*** Therefore, I feel it is appropriate to direct the respondents to consider the representation of the petitioner in the light of the above order passed by this Court.

8. In the result, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner in the light of the order passed by this Court in W.P.No.38243 of 2016, dated 27.07.2023 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

07.11.2023

Index : Yes

Internet : Yes/No

Page No.6 of 8



W.P.No.16766 of 2021

gsk

WEB COPY

To

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai, Chennai 2.
- 2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai, Chennai 2.
- 3.The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Krishnagiri District.



WEB COPY



W.P.No.16766 of 2021

R.N.MANJULA, J.

gsk

W.P.No.16766 of 2021

07.11.2023