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W.P.No.18731 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P. No. 18731 of 2021

K.Dharmalingam

.....Petitioner

Vs.

1.The Chairman and Managing Director,
Tamilnadu Electricity Board,
No.800,Anna Salai,
Chennai-600 002.

2.The Additional Chief Engineer,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.

3.The Superintending Engineer
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.

4.The Assistant Engineer,
Tamil Nadu Electricity Board,
Ingoor Perunthurai Division,
Erode District.

..... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, calling for entire records pertaining to the proceedings of the 3rd respondent in KA.EN.001100/34/NIBI2/U.2/KO.VA.VE/2021-2 dated 05.05.2021 and to quash the same and consequently direct the respondents to provide suitable post to the petitioner under the scheme of compassionate appointment.



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For petitioner : Mr.M.R.Dhalapathy Vignesh Kumar

For respondents : Mr.David Sundar Singh

ORDER

This writ petition has been filed by the petitioner to quash the order passed by the 3rd respondent in his proceedings KA.EN.001100/34/NIBI2/U.2/KO.VA.VE/2021-2 dated 05.05.2021 and consequently direct the respondents to appoint the petitioner on compassionate ground.

2. It is the case of the petitioner that petitioner's father was working as a lineman with the 3rd respondent Electricity Board and he died on 03.06.2009 while he was in service. Thereafter, the petitioner has sent a request to the 3rd respondent on 03.05.2012 and 14.09.2012 to consider him for offering an appointment on compassionate ground. The said request of the petitioner was rejected on the ground that the petitioner had not attained the qualifying age i.e., 18 years on the date of application. Again, the petitioner had submitted another application to consider his appointment under compassionate ground on 30.11.2013 and the respondent Board has passed the impugned order dated 04.01.2014 by rejecting the claim of the petitioner. Aggrieved over the same, the petitioner had challenged the said



orders by preferring a writ petition in W.P.No.31399 of 2014 before this Court and an order has been passed to consider the application of the petitioner afresh. Pursuant to the order, the petitioner submitted a fresh application on 25.01.2021 and the 3rd respondent had rejected the claim of the petitioner by stating that he had not attained the age of 18 years as on 04.05.2010. Now, the petitioner challenges the same by way of preferring this writ petition seeking direction for appointment on compassionate ground.

3. The learned Standing Counsel for the respondent(TNEB) filed a counter stating that as on date when the application was given by the petitioner for the first time, he was a minor. Since he has not attained the qualifying age, the application could not be considered. It is also stated that as per BP.MS.(FB) No. 46(Adm Br) dated 13.10.1995, a person will be eligible for appointment on compassionate ground only if he has passed 8th standard at the time of application. The candidate should have completed the age of 18 years on the date of application and further application ought to have been made within 3 years from the date of death of the employee.

4. The learned counsel for the petitioner and the learned Standing Counsel for the respondents canvassed the same points during the course of their arguments.



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5. However, the learned counsel for the petitioner would rely upon the judgment of this Court held in W.P.No.31399 of 2014 dated 05.01.2021. The said writ petition has been filed by the very same petitioner challenging his earlier rejection on the ground that he has not attained the age of 18 years. After having recorded that application has been submitted within a period of three years and the petitioner had attained the age of 18 years subsequently, though he was just 17 years at the time of filing of the application, direction has been given to consider the application. It is to be noted that the above orders of the Court made in the earlier writ petition dated 05.01.2021 was not challenged by the respondents. In fact, the order to consider the application afresh has been made only by taking into consideration the fact that the petitioner had attained the age of 18 years, subsequent to his application.

6. Since the compassionate ground appointments are made just to ensure that the family members of the deceased Government Servant who suddenly become helpless and find difficult to survive without any source of income to fulfill the basic and fundamental needs for survival. Even



though the rules prescribe that the petitioner ought to have completed the age of 18 years on the date of application, in the earlier order of this Court,

the direction has been given after taking cognizance of the above fact. At a time when the application has to be considered afresh, the petitioner had attained the required age limit. I feel that the respondent ought not to have taken dispassionate view to reject the application on the ground that the petitioner had not attained the age of 18 years on the date when the application was filed. If the children of the deceased employees were minors or none of his children had attained the age of eligibility, the situation of the family would be still worse. The petitioner seems to have got a sister who is aged 26 at the time of death of his father and she has shifted to her husband's family subsequent to her marriage.

7. In view of the above stated reasons, the writ petition is allowed and the impugned proceedings passed by the 3rd respondent in KA.EN.001100/34/NIBI2/U.2/KO.VA.VE/2021-2 dated 05.05.2021 is hereby quashed and the respondents are directed to consider the petitioner's request to appoint him on compassionate grounds in accordance with law. No costs.

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Index :Yes/No

Speaking Order :Yes/No



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R.N.MANJULA,J.

nr/vca

To

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